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COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Agenda item 8

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Letter dated 12 April 1999 from the Permanent Observer of Palestine to the United Nations Office at Geneva addressed to the High Commissioner for Human Rights and the Chairperson of the Commission on Human Rights

After study of the report by Mr. Hannu Halinen, Special Rapporteur (E/CN.4/1999/24), submitted to the fifty-fifth session of the Commission on Human Rights, it was clear that the Government of Israel did not cooperate with the Special Rapporteur in carrying out his mission, defined in his mandate pursuant to Commission on Human Rights resolution 1993/2 A of 19 February 1993 (paragraph 4 of the mentioned report).

It was clear also that the Commission on Human Rights, at its forty-ninth session in 1993, adopted a resolution by which it appointed a Special Rapporteur to investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, after tens of resolutions in which the Commission condemned the Israeli practices, the grave violations of the already mentioned principles and bases, and the violations of human rights in the occupied Palestinian territory, since the Israeli military occupation of 1967 of this territory.

The Special Rapporteur underlined in his report, as he did in his previous ones, that Israel is still refusing to cooperate with him in carrying out his mission; it refuses to receive him and to collaborate with him in his capacity as Special Rapporteur appointed by the Commission on Human Rights,

whereas the Palestinian side has opened before the Special Rapporteur, since his designation, all doors and fields, in order to help him with his mission, in line with his mandate as defined in Commission resolution 1993/2 (paragraph 9 of the report).

However, the Special Rapporteur has exceeded his mandate when he talked about matters related to the peace process, matters which have nothing to do with the core of his mandate as defined in the above-mentioned Commission resolution (paragraphs 11 to 13). He also exceeded the core of his mandate when he talked about allegations concerning Palestinian justice (paragraph 51).

What is curious, and not in conformity with the mandate of the Special Rapporteur, is that in his report, he asks for amendments to his mandate so that it would cover other regions far from those defined in resolution 1993/2 (paragraph 58). By so doing, he is ignoring the objective causes behind the persisting deterioration of the situation of human rights under the Israeli occupation of the Palestinian territory, and the practices by the occupation authorities in this regard, for more than 30 years. These causes were in fact the only, and the basic reason for the designation of the Special Rapporteur at the forty-ninth session of the Commission. Yet, if the Special Rapporteur perceives that there are dangers that threaten human rights in other regions outside the framework of his mandate, it is the Commission that can look into this matter; the Commission alone, and without any initiative from the Special Rapporteur, can take the appropriate steps to deal with the situation.

It is also curious that the position of the Special Rapporteur coincides with that of the Representative of the Government of Israel to the Commission, who, in his statement before the Commission on 30 March 1999, asked for support for the request made by the Special Rapporteur in connection with changing the mandate, bearing in mind that he is the representative of the Government which is committing grave violations of human rights in the occupied Palestinian territory, the Government which asserts, year after year, its refusal to cooperate with the Special Rapporteur and refuses to receive him so that he can fulfil his mission, a refusal which constitutes in fact a flagrant rejection of Commission on Human Rights resolutions.

The only way to understand the request made by Israel, on the one hand, and by the Special Rapporteur, Mr. Hannu Halinen, on the other hand, to change the mandate, is so that Israel and its occupation authorities can be free to continue their violations of human rights and of the principles of international law and international humanitarian law, in the absence of any control on the part of the Commission on Human Rights. This request is aimed at keeping out of sight the practices of Israel and those of its occupation authorities. It is also aimed at creating the impression that the Commission, as well as its successive resolutions on the deterioration of human rights in the occupied Palestinian territory, is wrong, at a time when the Israeli occupation of this territory, together with all the grave violations of human rights resulting from this occupation, persists.

On the basis of the above, Palestine, together with a number of States members of the Commission on Human Rights, definitely rejects the request made by Israel and by the Special Rapporteur to change his mandate. We call for

the continuation of this mandate as it was defined by the Commission in its resolution 1993/[illegible] adopted at its forty-ninth session on 19 February 1993. The Palestinian side will continue cooperating with the Special Rapporteur as long as he works in accordance with his above-mentioned mandate.

I would be grateful if you could have this letter distributed, as soon as possible, to the members of the Commission, as an official document of the fifty-fifth session of the Commission on Human Rights under item 8.

(Signed) Nabil RAMLAWI
Ambassador
Permanent Observer

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Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 15 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit, enclosed herewith*, the information concerning the most recent NATO attack on a convoy of refugees going back home which caused large civilian casualties. I would like to ask you to have it published as an official document of the fifty-fifth session of the Commission on Human Rights under agenda item 9.

(Signed) Branko BRANKOVIC
Ambassador
Chargé d'affaires a.i.

* The annex is reproduced as received in the language of submission only.

Annex

NATO barbaric bombing kills 64 Albanian refugees, wounds 20 and kills three policemen

On 14 April 1999, NATO savagely bombed a convoy of refugees who were returning to their homes. The attack was perpetrated between 13:00 and 15:00 hours on the Prizren-Djakovica road near the villages of Madanaj and Meja. This convoy of refugees carried children, women and the elderly. A total of 64 persons were killed, 20 persons were inflicted heavy or light injuries. Were also killed 3 policemen who secured the convoy of refugees. This convoy of tractors and cars carrying several thousand civilians was attacked twice.

This latest crime committed by the NATO "riders of Apocalypse" represents a part of the policy aimed at creating a humanitarian catastrophe and preventing refugees from returning to their homes.

By killing and intimidating the refugees who are going back home, NATO countries want to create the situation which will enable them to justify their demand for the deployment of NATO military armada on the soil of the Federal Republic of Yugoslavia as if they were the only guarantor of the security of refugees.

After the terrorist gangs were broken up and after the situation in Kosovo and Metohija became safe, the bombing of innocent civilians is yet another proof of crimes against humanity committed by NATO barbarians.

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COMMISSION ON HUMAN RIGHTS
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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 15 April 1999 from the Permanent Representative of Qatar to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit to you the statement adopted by the Organization of the Islamic Conference Contract Group on Jammu and Kashmir held at the United Nations Office at Geneva on 9 April 1999 along with a memorandum on the situation in Jammu and Kashmir submitted by the true representatives of the Kashmiri people.

I should be grateful if you would kindly have the sta ment and memorandum* circulated as official documents of the fifty-fi.th session of the Commission on Human Rights, under agenda items 5 and 9.

(signed) Fahad Awaida AL-THANI
Ambassador
Permanent Representative

* This annex is reproduced as received in the language of submission only.

MEMORANDUM PRESENTED BY THE TRUE REPRESENTATIVES OF THE KASHMIRI PEOPLE TO THE OIC CONTACT GROUP ON JAMMU AND KASHMIR DURING THE 55TH SESSION OF THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS, GENEVA, APRIL 09, 1999

We, the Representatives of oppressed Kashmiri people:

Recalling the relevant resolutions of the United Nations Security Council and also United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, upholding the right to self-determination of the people of Jammu and Kashmir.

Recalling all resolutions relating to Jammu and Kashmir of the OIC Summit and Ministerial Conferences.

Welcoming the historic Special Declaration of the Extraordinary Session of the Islamic Summit Conference on Jammu and Kashmir adopted on 23 March 1997.

Further welcoming the reaffirmation of the commitment of the OIC and its Member States as reflected in the Tehran Summit Declaration of 11 December 1997 to promote a just and peaceful solution of the Jammu and Kashmir dispute in accordance with the relevant resolutions of the United Nations Security Council and their support to the fundamental human rights of the Kashmiri people, including their right to self-determination.

Expressing deep gratitude to the OIC and its Member States for their unequivocal support for Kashmiris right to self-determination and for their condemnation of the repression and massive human rights violations in Indian occupied Jammu and Kashmir.

Rejecting Indian efforts to impose farcical elections as they are not a substitute to the freely exercised right of the Kashmiri people to self-determination.

Affirming that any agreement on Jammu and Kashmir should be on the sole basis of the aspirations of the Kashmiri people as provided by the relevant UN Security Council Resolutions.

Condemn the serious crimes and human atrocities, massacre, extra-judicial killings, custodial deaths, reprisal killings, arbitrary detention, torture, burning of houses, villages and townships and use of rape as an instrument of suppression by the Indian government through its military and para-military personnel, renegades and mercenaries which have claimed more than 65,000 innocent lives in Jammu and Kashmir during the last nine years.

Further condemn the destruction and desecration of Islamic holy places in occupied Kashmir by Indian forces.

Reaffirm their full rejection of farcical elections imposed by India in occupied Kashmir.

Support the efforts of the Government of Pakistan in seeking a peaceful solution of Jammu and Kashmir dispute, keeping in view the aspirations of the Kashmiri people through all possible means, including a substantive meaningful and sustained dialogue with the Indian Government.

Resolve that:

(a) The people of Jammu and Kashmir shall continue their struggle for the realization of their right to self-determination as promised to them by the international community through the United Nations Security Council resolutions.

(b) The will of the people of Jammu and Kashmir expressed through a free and impartial plebiscite conducted under the auspices of the UN constitutes the sole and primary basis for the settlement of the Jammu and Kashmir dispute.

Urge the members of the Commission on Human Rights to:-

a) Demand that India withdraw its army of occupation from Jammu and Kashmir, fulfil its promise of holding a free and fair plebiscite in Jammu and Kashmir under UN auspices in accordance with the relevant UN Security Council resolutions and the United Nations Commission on India and Pakistan resolutions of 13 August 1948 and 5 January 1949.

b) Call on India to give concrete shape to the commitments made by it in order to secure the early settlement of the Jammu and Kashmir issue on the basis of the wishes of the Kashmiri people as stipulated by the relevant UN Security Council resolutions.

c) Stress upon the Indian government to put an end to state-terrorism; desist from genocidal repression that tantamounts to ethnic cleansing in Jammu and Kashmir; halt the practice of "crackdowns" on Kashmiris villages and urban areas; remove military pickets and troops from Kashmiri towns and villages and fully respect the religious sentiments of the Kashmiri people.

d) Impress upon the Indian government to allow full access to the thematic special rapporteurs on human rights and international human rights organizations and agree to the stationing of impartial human rights monitors in Indian occupied Jammu and Kashmir.

e) Support that leaders of All Parties Hurriyat Conference and Kashmiri Human Rights activists should be declared as "Internationally Protected Persons".

f) Support that the right of travel of Kashmiri people and the leaders of All Parties Hurriyat Conference should be guaranteed and protected.

(g) Extend all possible humanitarian assistance to the suffering people of Kashmir.

(h) Encourage the ICRC to play a more active role, including humanitarian help to Kashmiri widows and children.

Appeal to all peace loving people and the nations of the world to help and support the people of Jammu and Kashmir in their struggle for realization of their right to self-determination as promised to them under the relevant UN Security Council Resolutions.

STATEMENT ON JAMMU AND KASHMIR ADOPTED BY THE OIC CONTACT GROUP ON JAMMU AND KASHMIR AT ITS MEETING DURING THE 55TH SESSION OF THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS IN GENEVA, APRIL 09, 1999

The OIC Contact Group on Jammu and Kashmir meeting on the occasion of the 55th Session of the United Nations Commission on Human Rights expressed their continuing deep concern over the situation in Jammu and Kashmir, especially the gross and systematic human rights violations resulting in the suffering of the Kashmiri people.

The Meeting reaffirmed all OIC Summit and Ministerial Declarations and Resolutions on the Jammu and Kashmir dispute.

The Meeting recalled UN Security Council resolutions 47 (1948) of 21 April 1948, 51 (1948) of 3 June, 1948, 80 (1950) of 14 March 1950 and 91 (1951) of 30 March 1951, and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949 that stipulate that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

The Meeting called for an immediate end to the massive violations of human rights and, in this regard, reiterated the determination of OIC Member States to continue their efforts for the full protection of the fundamental human rights of the people of Jammu and Kashmir. It called on India to allow international human rights bodies, thematic special rapporteurs and NGOs to regularly visit and monitor the human rights situation in Jammu and Kashmir.

The Meeting noted that, in the changed security environment in South Asia, there is now an added urgency for Pakistan and India to meaningfully address the Jammu and Kashmir issue which continues to be the root cause of the tensions and instability in the region.

The Meeting expressed encouragement and support for the Pakistan-India dialogue to promote peace, rapprochement and economic development in South Asia. It welcomed the Pakistan-India Summit at Lahore on February 23, 1999 and called on India to translate into reality the commitments contained in the Lahore Declaration in order to usher in a new era of peace and stability in the region.

The Meeting affirmed once again the commitment of the OIC to promote a just and peaceful solution to the Jammu and Kashmir dispute in accordance with the United Nations resolutions; expressed their resolve to seek the effective realization of the right to self-determination of the Kashmiri people and conveyed their support for the efforts of the Government of Pakistan to resolve through a serious substantive and meaningful dialogue on the Jammu and Kashmir dispute which is the basic cause of the tensions between India and Pakistan.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 16 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit, enclosed herewith,* the "Comment of the Federal Republic of Yugoslavia in regard to the resolution adopted at the Commission on Human Rights 'Situation of human rights in Kosovo'" E/CN.4/1999/L.3/Rev.1. I would like to ask you to have it circulated as an official document of the fifty-fifth session of the Commission on Human Rights under agenda item 9.

(signed) Branko Brankovic
Ambassador
Chargé d'affaires a.i.

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* The annex is reproduced as received in the language of submission only.

Annex

COMMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA
in regard to the Resolution adopted at the Commission for Human Rights
"Situation of human rights in Kosovo" E/CN.4/1999/L.3/rev.1

It is known that the noble causes of the Commission on Human Rights are promotion and protection of human rights worldwide. However, over the past few years, we witness attempts that the Commission and its decisions be changed into an instrument for political goals of those self-proclaimed leaders and protectors of human rights in particular.

A clear example of such a politicization of the Commission's work is the adoption of the Resolution "Situation of human rights in Kosovo" E/CN.4/1999/L.3/Rev.1. All those who voted for its adoption are victims of unscrupulous propaganda campaign and lies fabricated against the FR of Yugoslavia by countries members of the NATO Alliance which perpertrated the aggression against the FR of Yugoslavia. The sole goal of those who suggested that this resolution be adopted is to justify and get further support for the barbaric NATO aggression against the FR of Yugoslavia.

The NATO aggression against a sovereign and independent FR of Yugoslavia is the flagrant violation of the UN Charter, OSCE Final Act, basic principles of international humanitarian law, including the very statute of the NATO as a defensive alliance. Continued bombing of the entire territory of the FR of Yugoslavia, of civilian facilities and infrastructure in particular, is the direct and only cause of the humanitarian catastrophe in the entire region of the Balkans. From the standpoint of human rights, this aggression represents an act of genocide against the peoples of the FR of Yugoslavia.

The text of the adopted Resolution puts the Commission and all those who voted for it in function of daily politics and strategic interests of certain countries under the leadership of the United States of America. Those countries wish to create a world hegemony, to impose solutions by force and to create colonies and protectorates, everything that the international community has rejected by adopting the UN Charter and its principles.

Such a behavior by self-proclaimed leaders in the field of human rights, supported by the adoption of resolutions alike this one, is only contributing to creating chaos in international relations, to destroying the UN system, to establishing the "right of the stronger" and to scandalous annulment of basic principles in the field of human rights built up throughout all these years. Hitler destroyed the League of Nations in the very building in which this resolution was adopted. By adopting the afore mentioned resolution, the Commission helps NATO aggressors destroy the UN.

The FR of Yugoslavia believes that the UN and all its member states, as well as the Commission itself, will succeed to stand up to the behavior of modern hegemonies that destroy the Charter, carry out genocide and wish to establish "the right of the stronger". Should the UN and the Commission fail to stand up to that, humanity will enter the twenty first century whose main feature will be chaos, lawlessness and military interventions.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF:

RELIGIOUS INTOLERANCE

Letter dated 21 April 1999 from the Permanent Representative of Viet Nam to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

May I have the honour to draw your attention to the statement on 9 April 1999 on agenda item 11 by Ambassador Nguyen Thanh Chau, member of the Vietnamese delegation at the fifty-fifth session of the Commission on Human Rights, in which he highlighted the report by the Special Rapporteur on religious intolerance, Mr. Abdelfattah Amor, regarding his mission to Viet Nam (E/CN.4/1999/58/Add.2) and indicated that a detailed response to the report would be provided later.

I am pleased to provide herewith that detailed response*. In our view, it should be read in conjunction with the Special Rapporteur's report referred to above to obtain a fuller and more balanced picture of the religious situation in the country.

It is requested that the response be circulated as a document of the Commission on Human Rights.

(Signed) NGUYEN QUI BINH
Ambassador
Permanent Representative

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* The annex is reproduced as received in the language of submission only.

Annex

ON THE REPORT OF THE VISIT TO VIETNAM BY THE SPECIAL RAPPORTEUR ON RELIGIOUS INTOLERANCE (19-28 OCTOBER 1998)

As an active member of the UN, Vietnam always attaches great importance to the efforts and activities of this Organisation as well as its various functional bodies including the Commission on Human Rights, the Office of High Commissioner for Human Rights and their experts in issues related to social and economic development, and the promotion and protection of human rights.

In the spirit of goodwill and co-operation, as best manifest through the visit to Vietnam in April 1995 of the Special Rapporteur on Arbitrary Detention, Vietnam invited the Special Rapporteur on Religious Intolerance to visit Vietnam to acquire first-hand knowledge of the legal and policy framework which ensures the religious freedom for all people, as well as the real situation of free religious practices in Vietnam. During his visit, the Government of Vietnam facilitated his meetings and exchange of information with senior officials from the Ministry of Foreign Affairs, Ministry of Public Security, Ministry of Justice, Ministry of Education and Training, the Government's Committee for Religious Affairs, the Religious Research Institute as well as leaders of such major religions as Buddhism, Catholicism, Caodaism and Islam. The Special Rapporteur also had opportunities to visit many temples, pagodas, worship places and religious training facilities such as the Buddhist Institute and seminaries located throughout the country, from Hanoi to Hue to Ho Chi Minh City. In particular, he had the chance to meet the religious persons at his request, and a number of prisoners in Xuan Loc of Dong Nai Province.

However, it is unfortunate that the Report presented by the Special Rapporteur about his visit to Vietnam (E/CN.4/1999/58/Add2) ignores the true information and reality on the free practice of religions and faith of the Vietnamese people and the efforts on the part of the Vietnamese Government to ensure an ever-growing right to freedom of religions and belief as provided to him or as he witnessed during the visit.

Moreover, the Report contains numerous misleading comments on stipulations in the Constitution and laws and on the Government's policies towards religions. The Report repeatedly refers to the information from unidentified sources, which could be obtained in full without effectuating the visit itself. We have no bias against the work of any individual or any private organisation per se. Yet a big question mark is placed on the intentions and the impartiality of the publication by a number of people and organisations. Those who understand the Vietnamese history

and reality know that some Vietnamese individuals and organisations are, either under the pretext of NGOs or religion and driven by sinister political motives, moving around with intentionally false, distorted and hostile information, hoping to undermine the national solidarity, construction and development in Vietnam.

Given the respect and high appreciation of the work performed by UN Special Rapporteurs, Vietnam feels the need to provide further information to help balance the afore-mentioned Report by the Special Rapporteur.

I. Vietnam's history and traditions

Throughout thousands of years of national building and defence, the Vietnamese people have generations after generations built a nation with a glorious history and a rich cultural identity. Like other peoples in the East, the Vietnamese people uphold a tradition of respect for morality, belief and religions.

1. Vietnam is a multi-religious country where six major religions namely Buddhism, Catholicism, Protestantism, Caodaism, Hoahaoism and Islam co-exist peacefully. All religions are entitled to respect and equitable conditions for development. All beliefs and religions were built upon the tradition of worship to the ancestors and the custom of paying respect to those who made worthy contributions to the country and people (based on Confucianist and Taoist philosophies). It is so normal to find believers, non-believers or believers of different religions within one family. There have never been religious discrimination or conflicts throughout the country's long history. Therefore it can be well said that religious intolerance doesn't exist in Vietnam.

2. The Vietnamese people have a tradition of unity. National unity among believers and non-believers and different religions constitutes national strength and is a decisive factor for Vietnam to overcome all challenges, especially when the country was confronted with foreign aggressions. The victories in the past struggles against foreign invasion as well as the achievements in the process of Doi Moi (renovation) all testifies to this unity which is crystallised in President Ho Chi Minh's teaching: "Unity, unity, great unity; success, success, great successes". This idea has also been adopted by religions as indicated in the 1980 Letter by the Vietnam's Council of Bishops which reads: "Live in Gospel's spirit for the happiness of the compatriots".

3. Those well-informed readers of Vietnam know that religions played a part in the ups and downs in this country's history. In the past, the imperialists and colonialists came to Vietnam under the guise of religions,

and then brutally persecuted those religious followers of patriotic belief; at the same time they deployed a villainous plot of sowing the seeds of instigation and division among different religions, between believers and non-believers... in an attempt to break up the religious as well as national unity. In fact, a small number of religious believers was taken in and armed against their own people, hence the prejudices and complexes among the people. At present, hostile forces still continue in their macabre attempt to misuse religions against Vietnam.. To address this problem, the State and people of Vietnam have persistently been consolidating the mass unity and "overcoming any prejudice or discrimination against religious believers" (*Political Report at the VII National Congress of the Communist Party, 1991).*

II. Vietnam Constitution, Legislation and Policies on religions and beliefs.

Proceeding from the national history, traditions, and actual situation of Vietnam, and in reference to international conventions and laws as well as the experience of other countries, the Vietnamese Government has adopted a policy of respect for religious freedom.

Vietnam's Constitution clearly stipulates that *"Vietnamese citizens are all entitled to freedom of belief and religion, practice or non-practice of any religion. All religions are equal before the law.*

Worship places of all beliefs and religions are protected by law.

Freedom of belief and religion should not be violated or abused to violate the State's laws and policies"

(Article 70).

These provisions are highly progressive, essentially equivalent to the provisions in *Article 18* of the International Convention on Civil and Political Rights.

The State's legal provisions on belief and religions are established on the following five principles:

1.The State protects the citizen's freedom of belief or non-belief; prohibits the discrimination against religions or beliefs.

2. All religious followers or non-religious people are equal before the law and entitled to the citizen's rights and obligations.

3. Religious activities should be conducted in conformity with the Constitution and Legislation of the Socialist Republic of Vietnam.

4. Religious activities which bear the legitimate and rightful interests of religious followers are protected, and which are in the interests of the Motherland and people are encouraged.

5. Superstitious activities of whatever forms should be discouraged. All activities under the guise of religion aimed at undermining the Socialist Republic of Vietnam, national independence, unity and culture, and preventing religious followers from fulfilling their citizens' rights are sanctioned in accordance with the laws." (Article 1,2,3,4,5 of the Decree 69/HDBT dated 21 March 1991 of the Government)

The proper implementation of the above-mentioned rights to religious freedom is made more specific:

- Regarding the worship places: *" worship places which have already been degraded or damaged will be repaired. For those worship places that were damaged during the war or due to the passage of time, their reconstruction will be considered at the request of religious leaders on the basis of regulations of the Land Law."*(the Prime Minister's Directive No 379/TTg on July 23, 1993).

- Concerning the religious training *" the training of religious clergy at the domestic training centres will be facilitated. Religions are permitted to send their people for training abroad if so required."* (the Prime Minister's Decree No. 379/TTg dated 23 July 1993). *" The State creates favourable conditions for all religions to conduct their external relations activities".* (Guidance 500HD/TGCP dated 4 December 1993 issued by the Government's Committee for Religious Affairs).

- Concerning the publication, import and export of religious books and documentation: *" The State facilitates the printing, import and export of religious publications. Import and export of religious publications should be in conformity with the regulations on import and export of cultural publications".* (Directive No. 379 TTg and Guidance No. 500HD/TGCP)

At the same time, the State also issues regulations and guidelines to relevant Government authorities (such as the People's Committees, Committee for Religious Affairs, administration at all levels...) as well as concerned mass organisations (religions, the Fatherland Front) for the proper implementation of the policy of religious freedoms and beliefs.

" People's Committees, Committees for Religious Affairs and administration at all levels should inspect the implementation of Decree No. 69 at their localities, recognising and encouraging good deeds and correcting wrong ones. Additional studies should be conducted to ensure normal activities of religions, putting an end to those activities in violation of policies on religions".

" In the course of implementation, religious representatives can make recommendations to the Administration and Committees for Religious Affairs at all levels on the points that need to be added to the state's legal provisions, so as to further facilitate the conduct of normal activities in accordance with the law. Upon receipt of the recommendations, the authorities should study them and make clear to the religious representatives which recommendations they accept; otherwise explanations should be forwarded". (Decree No. 379TTG and Guidance No. 500HD/TGCP).

"Government officials who seriously violate the policy on religions shall be strictly disciplined in accordance with the law". (Guidance No. 500HD/TGCP).

Obviously, this is a manifest of an integral system of law and policy set up by the State of Vietnam to better ensure the freedom of beliefs and religions of all Vietnamese citizens through the current state apparatus, and it also serves as the legal framework for religions to implement their right to religious freedom. We are therefore unable to understand and cannot accept such misguided interpretation of our laws, regulations and policies as *"obstructive to religious freedoms, or limiting them to a negligible level"*, or *"to maintain the control and supervision of the authorities to hamper the establishment of organisations which will defy their authority and influence"* or *"the implementation of this policy may be flexible depending on the open or restrictive attitudes of local authorities"*. It is this very issue that compels us to question the impartiality of the Report.

III. Current developments of free religious practice in Vietnam.

A. The diversified religious activities among the Vietnamese citizens in past years serve as a vivid testimony to the implementation of the above-mentioned policy. There are about 20 million followers of the six religions who conduct their religious practice regularly, not to mention about tens of million others still keeping to their traditional beliefs. These religions have a great number of religious clergy, including nearly 28,000 Buddhist clergymen, 33 archbishops, 2,200 priests and more than 10,000 priest cloisters and cloisteresses, over 500 ministers and pastors, and over 5,000 Cao Dai clergy...

1. Buddhism: Buddhism is the most popular religion in Vietnam with a total number of over 15 million followers, including nearly 1 million from Khmer ethnic group in the South. One third of the clergymen are Khmer. Today, there are about 14,000 Buddhist pagodas throughout the country (of which 440 are Khmer's) without mentioning nearly 10,000 temples, shrines dedicated to the traditional belief. The Buddhist Church of Vietnam manages 24 fundamental Buddhist schools, 2 Colleges of Specialised Buddhist studies

and 3 Buddhist Institutes in Hanoi, Hue, Ho Chi Minh city, another Institute and its affiliate for Buddhist studies. About 400 clergymen attend classes for higher Buddhist studies, more than 200 enrolled in the College of Specialised Buddhist studies, over 2,000 others studying Buddhist fundamentals, nearly 300 having graduated from senior classes, more than 500 are now working in local Buddhist Associations after finishing their studies. For the Khmer, there are primary Pani and Vini classes with 1,700 students, including 450 in intermediate classes and 250 in advanced classes. The Special Rapporteur himself witnessed those activities during his visit to the Buddhist training institutions in Hanoi, Hue and Ho Chi Minh City. And he was also told by the prominent Buddhist clergymen of the Buddhist Church of Vietnam in their private meetings that "it is the heyday of Vietnamese Buddhism".

2. Catholicism: Vietnamese Catholicism is the second largest religion with nearly 5 million followers (accounting for 7% of the total population) living in 2030 parishes with over 6,000 churches. According to the statistics of Vietnam Catholic Church, the number of followers has increased in the past years. The relations between Vietnam and Vatican has significantly improved. Vatican sends annual missions to Vietnam, followed by the appointment of bishops to the vacant posts. At the moment, Vietnam Catholic Church has 6 grand seminaries nation-wide, one enrolment every two years and until now there have been more than 500 seminarists, hundreds more have graduated, being appointed to many parishes. Owing to that, the lack of bishops in a number of localities has been overcome.

Especially in August 1998, with active support and assistance from the State and local authorities, the Vietnam Catholic Church successfully organised the La Vang pilgrimage, the Year of Grand Amnesty and the Bicentennial Anniversary of the Appearance of the Virgin Mother in Quang tri province with the participation of over 200,000 Christians, 20 bishops, 200 priests, 250 nuns of seminaries from all over the country. Many foreign correspondents and overseas Vietnamese Christians also attended. The La Vang pilgrimage, as highly appreciated by the international community, is another vivid manifestation of the State policy of religious freedom.

3. Protestantism

The number of Protestants in Vietnam is about 400,000 with 500 pastors at 499 churches all over the country. Although Vietnam Protestant Church is the only organisation with a legal status, the Government facilitates the conduct of religious activities by all followers. Activities of the pastors have regularly been maintained and developed. Seminaries such as Bible theological schools have been allowed to operate, Bibles being made possible for printing and importation (*refers to paragraphs below).*

4. Caodaism:

This is an "endogenous" religion of Vietnam. At present, Caodai has about 2,000,000 followers with 6,625 clergymen, 9,223 auxiliaries at over 1,000 oratories, and most of them are in the South. Activities of Caodai followers have been increasingly diversified. Recently, the legal status of dozens of different sects of Caodaism has been recognised by the Government, meeting the demand of Caodai followers. Caodai sects are also free to train clergymen in accordance with its traditions (opening intensive classes for clergymen and auxiliaries) and to print books for its religious activities.

5. Hoahaoism:

Like Caodai, Buddhist Hoahao is also "endogenous", being developed in the Mekong River Delta. According to its own traditions and philosophies, Hoahao does not have its temples or oratories, as well as statues or pictures (in the areas where Buddhists converted to Hoahao, Buddhist temples have been transferred to and used by Hoahao followers). The worship and religious practices have been mostly conducted at home. Hoahao has no clergy, no congregation, just small number of followers who are responsible for both religious practices and normal life in hamlets, but they still live with their families as other ordinary followers. Hoahao, unlike Catholicism or Buddhism, has no holy books. At present, the total number of followers is about 1,500,000. Religious activities have been conducted in line with its traditions, i.e. home worship. Every religious activity of Hoahao followers is respected and facilitated by the State.

6. Islam:

Vietnam has about 93,000 Muslims, with 455 clergymen at 89 mosques, mostly in the South and closely related to the Cham ethnic group. Religious activities of clergymen and Muslims are maintained on regular basis. Hundreds of people go on pilgrimage to Mecca every year.

In addition to the 6 major religions mentioned above, there are also other religions in Vietnam such as Hinduism, BaHai'ism, etc. but small in number and not yet developed. Taoism and Confucianism are not viewed as religions in Vietnam.

B. The State's policy of religious freedoms as manifest in all aspects of religious activities:

Worship places: During wartime, nearly 500 churches and 500 temples were destroyed. In recent years, with the assistance and support from

the State, many worship places have been repaired and built, of which 20 to 25 percent are largely repaired or newly built and 80 percent are partly repaired, meeting the demand for religious worship.

Clergymen and monks: The State facilitates and helps the religions to open more schools and train more seminarists and monks (as mentioned in the previous parts). In addition, the State also facilitates the sending of followers abroad for further studies: the Vietnam Buddhist Church has sent nearly 200 monks to study Buddhism in India, Taiwan, Japan, Sri Lanka, China, etc... The Catholic Church has sent more than 80 priests to Rome, France, Canada, the Philippines, the United States... The State likewise facilitates the assignment and promotion of clergymen.

- **Publication of religious books; import and export of religious cultural items**: A wide variety of religious books have been published, religious cultural items exported and imported. In the 1994-1996 period alone, 346 religious book titles totalling 2 million copies, 53 kinds of religious calendars with a total number of 314.000 copies had been published. According to the incomplete statistics, 1,000 Buddhist book titles (totalling 40,000 copies) were imported from Taiwan and South Korea, over 10,000 religious bibles were imported by Protestantism from the International Bible Association, not to mention bibles imported by Catholicism and the Islam.

Since the Law on Publication was introduced (1993), the publication, export and import of Bible books have been regulated in conformity with the laws: Upon request by religious leaders and religious associations, religious organisations are responsible for all related activities ranging from quantity to issuance of bible books while publishing houses are responsible only for publication. As a religious publishing house has yet to be established due to financial constraints, the Government has designated three major publishing houses in Hanoi, Hue and Hochiminh City to support for the publication of religious matters. In the future, a publishing house in charge of publishing religious books and cultural works will be set up.

- **External activities of religious clergy and religious organisations**: External relations of various religions has recently been expanded and diversified. Religious international relations and religious external activities are regarded by the Government as an integral part of the external relations and people's external activities in the Government's foreign policy. The Government, therefore, guarantees and facilitates the external relations activities implemented by religious individuals and organisations on the basis of respect for the national independence and sovereignty, in conformity with the law, thus helping to consolidate and strengthen solidarity, friendship and international co-operation among nations.

Over the past years, an increasing number of religious clergy and

followers has travelled abroad for tourism, pilgrimage purposes, for visiting relatives and/or attending religious functions organised by international religious associations. From 1993 to October 1998 alone, nearly 1,000 turns of religious clergy and followers (687 Catholics, 294 Buddhists, 12 Protestants, 80 Muslims and 21 Caodai followers) had travelled abroad for those purposes. The number of religious delegations coming to Vietnam for working visits and religious activities is on the rise, about 20 delegations in 1997 and 1998. Overseas Vietnamese religious followers keep in touch with their homeland more often. At the same time, many Vietnamese religious clergymen have been appointed to the leadership of the multinational religious organisations . Various Vietnamese religious organisations are also members to their international bodies.

Social and charitable activities of religious organisations: Social and charitable activities carried out by religious organisations have been increasingly expanded and diversified, ranging from the delivery of relief aid for natural calamity-affected areas, bringing up orphans, looking after the disadvantaged, meeting and supporting lepers, providing medicines free of charge. Local government authorities play an active role in promoting religious organisations to set up schools for the disabled, private kindergartens, literacy compassionate classes, vocational courses, medial check-up and treatment. These activities have helped the society to deal with many pressing issues and also contributed to the promotion of national unity .

The above-mentioned information provides a comprehensive overview of religious activities in Vietnam and strongly affirms that beliefs and religions are tolerated and freely practised in the country. All religious activities are protected under the law. In fact, the Vietnamese Government has been doing its utmost to gradually strengthen the system of legal guarantees for the citizen's fundamental rights, which naturally encompasses religious freedom. As a result, fine achievements have been recorded and accepted by the national religions or recognised by impartial and unbiased observers. Representatives of more than 40 foreign embassies and international organisations in Hanoi all shared their views of this with the Special Rapporteur during his visit to Vietnam. Such achievements can't be resulted from a policy of "*restriction, control and prohibition of religious activities*".

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 20 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit, enclosed herewith*, the document entitled "Aide mémoire on humanitarian consequences of the NATO aggression against Yugoslavia". I would like to ask you to have it published as an official document of the fifty-fifth session of the Commission on Human Rights under agenda item 9.

(Signed) Branko BRANKOVIC
Ambassador
Chargé d'affaires a.i.

* The annex is reproduced as received in the language of submission only.

GE.99-12933 (E)

AIDE-MEMOIRE
on humanitarian consequences of NATO aggression against Yugoslavia

The NATO Alliance aggression against the FR of Yugoslavia which started on 24 March 1999 is not only an attack on a sovereign and independent country. This aggression imperiled as well international peace and security, violated the United Nations Charter and international legal order, thus creating one of the largest humanitarian catastrophe in the world since the founding of the United Nations.

A huge NATO military force was engaged to drop bombs on the population of the FR of Yugoslavia, its infrastructure and industrial facilities. More than 5000 tons of most perilous explosive was dropped, including the internationally-prohibited cluster bombs. All of this has created enormous civilian casualties and large material destruction.

As the consequence of the twenty-five-day long bombardment, the entire population of the FR of Yugoslavia is affected, including 700 000 refugees from Croatia and Bosnia and Herzegovina, and especially the children, the elderly and the socially most vulnerable categories . The living conditions have dramatically changed for the 11 million citizens of the FR of Yugoslavia. Namely, from the onset of the aggression, citizens have to leave their dwellings every day in order to find refuge in cellars and shelters.

Due to the total destruction of numerous industrial facilities, hundreds of thousands workers became jobless. Their existence and that of 2 million of their family members was affected. Constant bombardment makes impossible the conduct of normal industrial activities and public services in almost all fields of human life, in particular in the field of industry, mining, transport, and especially in agriculture where the spring sowing is underway. Attacked and destroyed were numerous pharmaceutical factories as well as the most important health care institutions in Belgrade and in other places in the FR of Yugoslavia. That way, the health of the entire population was directly affected. For example, the bombardment damaged or destroyed hospitals, medical centers and maternity wards in Belgrade, Pristina, Cuprija, Aleksinac, Nis, Novi Sad, Cacak, Ivanjica and in many other cities.

After the destruction of residential buildings, hundreds of persons were left roofless, and the destruction of traffic lines, bridges, railroads and railway stations, airports, public institutions, kindergartens, schools and faculties, affected the everyday life of the population. Also affected was the supply of the population with essential living needs. The education for 800 000 pupils and students was suspended. The destruction of the heating plant alone, which is providing heating for half of the citizens of Belgrade, affected the survival of a million of residents of the capital city. After the destruction of a bridge - historical monument on the Danube river in Novi Sad, 600 000 residents were cut of drinking water supply since the main and city water supply system was constructed into the bridge.

The use of extremely lethal ammunition, including the one prohibited under all international conventions and the bombardment of oil refineries and warehouses storing raw materials used in the chemical industry, as well as fuel and ammonia storages (Belgrade, Pancevo, Novi Sad, Smederevo, Guca), including a number of other chemical plants, caused a large ecological catastrophe with lasting consequences for the FR of Yugoslavia, as well as for other countries in the region, the entire Europe and the Mediterranean.

Speak also of the crimes caused by the aggression, facts on direct attacks on hospitals and other health care centers, refugee convoys, kindergartens, schools, passenger trains, civilian vehicles, hotels and youth resorts. Were neither spared the cultural-historical monuments of which many were under the protection of the UNESCO.

The aggression, mass bombardment and systematic destruction of large cities such as Pristina, Prizren, Pec, Djakovica, Nis, Novi Sad and others, caused an exodus of refugees inside the country as well as towards neighboring countries in which, as in Macedonia for example, there were no refugees prior to the aggression. A large number of refugees is from Kosmet.

The situation for 700 000 refugees from Croatia and Bosnia and Herzegovina, whom the FR of Yugoslavia has been sheltering for several years, had dramatically worsened. The refugee centers were directly bombarded, in particular in Pristina, Kursumlija and Kula. A large number of refugees were killed and an even larger number of them were injured during the NATO bombardment.

In view of the uninterrupted NATO aggression on the FR of Yugoslavia and the night-and-day bombardment, it is impossible to establish with accuracy all the material and other damage, and civilian casualties buried under the ruins and factories. Thus, this Aide-Memoire mentions only the damage and consequences occurred till 18 April 1999 at the eyes of the public and numerous world media which informed about it .

CIVILIAN CASUALTIES

SINCE THE BEGINNING OF THE NATO ALLIANCE AGGRESSION AGAINST THE FR OF YUGOSLAVIA AND UNTIL 14 APRIL 1999, THE NATO ALLIANCE MADE OVER 6000 CRIMINAL ATTACKS AGAINST THE TERRITORY OF THE FR OF YUGOSLAVIA. IN THESE ATTACKS, 700 WARPLANES, OF WHICH 530 COMBAT PLANES WERE USED; MORE THAN 1500 CRUISE MISSILES WERE LAUNCHED AND OVER 5000 TONS OF EXPLOSIVES WERE DROPPED.

THESE ATTACKS TOOK THE LIVES OF OVER 500 CIVILIANS, WHEREAS MORE THAN 4000 SUSTAINED HEAVY INJURIES, OF WHICH THE WORST SUFFERINGS WERE IN KURSUMLIJA, PANCEVO, CACAK, KRAGUJEVAC, VRANJE, ALEKSINAC, ORAHOVAC, PRISTINA, GRDELICA GORGE. TWO REFUGEE CONVOYS ON THE DJAKOVICA-PRIZREN ROAD WERE ATTACKED, WHEN IN THE SEVERAL-HOUR LONG BOMBARDMENT BY NATO PLANES, 75 WOMEN, CHILDREN AND VULNERABLE PERSONS WERE KILLED.

THREE MILLION CHILDREN OF THE FR OF YUGOSLAVIA ARE ENDANGERED AS A RESULT OF WAR AND BOMBARDMENT BY NATO CRIMINALS.

AFTER THESE BARBARIC ATTACKS, HUNDREDS OF THOUSANDS CITIZENS HAVE BEEN EXPOSED TO POISONOUS GASSES, WHICH CAN HAVE LASTING CONSEQUENCES ON THE HEALTH OF THE ENTIRE POPULATION AND THE ENVIRONMENT OF THE FR OF YUGOSLAVIA BUT ALSO OF THE ENTIRE REGION, THE ENTIRE CONTINENT AND OF THE MEDITERRANEAN.

NOVI SAD AND PETROVARADIN RESIDENTS (600 000) REMAINED WITHOUT WATER WHEN THE PETROVARADIN BRIDGE WAS DESTROYED, BECAUSE THE MAIN AND THE CITY WATER SUPPLY SYSTEM WAS CONSTRUCTED INTO THE BRIDGE. ABOUT ONE MILLION CITIZENS IN THE FR OF YUGOSLAVIA ARE SHORT OF WATER SUPPLY DUE TO THE BOMBARDMENT.

DUE TO THE TOTAL DESTRUCTION OF INDUSTRIAL FACILITIES ALL OVER THE COUNTRY, 500 000 WORKERS BECAME JOBLESS. 2 MILLION CITIZENS HAVE NO MEANS FOR LIVING AND CAN NOT ENSURE THE MINIMUM FOR EXISTENCE. A LARGE PART OF THE COUNTRY'S POPULATION IS BEGINNING TO FEEL THE EFFECTS OF THE BOMBARDMENT. GENERAL CONDITIONS OF LIVING, NOURISHMENT AND HEALTH PROTECTION WORSENEND CONSIDERABLY.

OVERALL MATERIAL DAMAGE IS ENORMOUS. PRELIMINARY ESTIMATES OF DAMAGES EXCEED SEVERAL BILLION DOLLARS.

HOSPITALS AND HEALTH CARE INSTITUTIONS

THE NATO AVIATION ATTACKED MANY HOSPITALS AND OTHER HEALTH CARE INSTITUTIONS, OF WHICH MANY WERE DAMAGED OR EVEN TOTALLY DESTROYED :

- THE HOSPITAL AND MEDICAL CENTRE IN THE LESKOVAC AREA;
- THE HOSPITAL AND POLYCLINIC IN NIS;
- THE GERONTOLOGICAL CENTER IN LESKOVAC;
- THE GENERAL HOSPITAL IN DJAKOVICA;
- THE CITY HOSPITAL IN NOVI SAD;
- THE CLINIC FOR GYNAECOLOGY AND MATERNITY WARD OF THE CLINICAL CENTRE IN BELGRADE;
- THE NEUROPSYCHIATRIC HOSPITAL "DR. LAZA LAZAREVIC" AND THE CENTRAL PHARMACY OF THE EMERGENCY CENTRE IN BELGRADE;
- THE ARMY MEDICAL ACADEMY IN BELGRADE;
- THE MEDICAL CENTRE AND EMERGENCY UNIT IN ALEKSINAC;
- THE "SAINT SAVA" HOSPITAL IN BELGRADE;

- THE MEDICAL CENTRE IN KRALJEVO;

- THE DISPENSARY IN ZLATIBOR;

- THE MEDICAL CENTRE IN RAKOVICA;

- THE ORTHOPEADIC HOSPITAL IN BELGRADE;

- THE MATERNITY CLINIC - SAVSKI VENAC

SCHOOLS

OVER 190 SCHOOLS, FACULTIES AND FACILITIES FOR STUDENTS AND CHILDREN ALL OVER YUGOSLAVIA WERE DESTROYED OR DAMAGED (OVER 20 FACULTIES, 6 COLLEGES, 40 SECONDARY AND 80 PRIMARY SCHOOLS, 6 STUDENT DORMITORIES):

- THE "16 OCTOBER" AND "VLADIMIR ROLOVIC" PRIMARY SCHOOLS IN BELGRADE;

- THE KINDERGARTEN IN PETLOVO BRDO SETTLEMENT IN BELGRADE; THE KINDERGARTEN IN NIS;

- NOVI SAD: PRIMARY SCHOOLS "TOZA MARKOVIC", "DJORDJE NATOSEVIC", "VELJKO VLAHOVIC", "SANGAJ" AND "DJ. DANICIC"; KINDERGARTEN "RAINBOW", KINDERGARTENS IN VISARIONOVA STREET AND IN SANGAJ SETTLEMENT; THE TRAFFIC SCHOOL CENTER, THE FACULTY OF PHILOSOPHY;

- FOUR PRIMARY SCHOOLS AND A MEDICAL HIGH SCHOOL IN THE LESKOVAC AREA;

- TWO PRIMARY AND A SECONDARY SCHOOL IN CUPRIJA. WERE ALSO DESTROYED THE SPORT CENTRE, THE MEDICAL CENTRE AND THE DENTAL DISPENSARY;

- THE PRIMARY SCHOOL IN LUCANI, AS WELL AS A LARGER NUMBER OF EDUCATION FACILITIES IN THE AREA OF KOSOVO AND METOHIJA;

- THE FACULTIES OF LAW AND ECONOMY AND THE PRIMARY SCHOOL "RADOJE DOMANOVIC" IN NIS;

- THE PRIMARY SCHOOLS IN KRALJEVO AND IN THE VILLAGES OF CVETKA, AKETA AND LADJEVCI;

- SOMBOR: THE PRIMARY SHOOLS "I.L.RIBAR", "A.MRAZOVIC" AND "N. VUKICEVIC" AS WELL AS "NIKOLA TESLA" IN KLJAJICEVO CLOSE TO SOMBOR;

- THE SCHOOL CENTRE IN KULA;

- THE PRIMARY SCHOOL AND THE ENGINEERING SECONDARY SCHOOL IN RAKOVICA

ROADS

THE ROAD AND RAILWAY NETWORKS, ESPECIALLY THE ROAD OR RAIL BRIDGES WERE ATTACKED, OF WHICH ELEVEN WERE ENTIRELY DESTROYED AND ELEVEN HEAVILY DAMAGED.AFTER THE DESTRUCTION OF BRIDGES ON THE DANUBE THE TRANSPORT ON THIS INDUSTRIAL ARTERY WHICH REPRESENTS THE SHORTEST LINK BETWEEN THE NORTH AND THE MEDITERRANEAN WAS DISCONTINUED.

INDUSTRIAL AND CIVILIAN FACILITIES, PUBLIC INSTITUTIONS

THE AIR STRIKES HAVE SO FAR DESTROYED OR DAMAGED ALL OVER THE FR OF YUGOSLAVIA SEVERAL THOUSANDS INDUSTRIAL FACILITIES AND DWELLINGS. IN THE LESKOVAC AREA ALONE, OVER 3500 INDUSTRIAL FACILITIES AND DWELLINGS WERE EITHER DESTROYED OR DAMAGED . THE DEVASTATION OF NATO FORCES WAS PARTICULARLY MANIFEST IN PRISTINA, NOVI SAD, ALEKSINAC, DJAKOVICA, PROKUPLJE, GRACANICA, CUPRIJA, ETC. HOUSING SETTLEMENTS ON THE OUTSKIRTS OF BELGRADE - KIJEVO KNEZEVAC, BATAJNICA, JAKOVO, BORCA, AS WELL AS THE AREA AROUND PANCEVO, WERE ALSO UNDER ATTACK.

IN CUPRIJA ALONE, 500 HOUSES WERE DESTROYED. THE SAME NUMBER OF HOUSES WAS DESTROYED IN ALEKSINAC. IN THESE TWO SMALL TOWNS ALONE, 5000 PERSONS REMAINED ROOFLESS.

1. INDUSTRY AND TRADE:

THE NATO AGGRESSORS' ATTACKS TARGETED THE CIVILIAN FACTORIES AND INDUSTRIAL FACILITIES WHICH DIRECTLY CATER FOR THE NEEDS OF THE POPULATION.

2. AGRICULTURE:

SEVERAL THOUSANDS HECTARES OF FERTILE LAND HAVE BEEN AFFECTED BY THE BOMBARDMENT. FACTORIES THAT PRODUCED ARTIFICIAL FERTILISERS AND THE RESERVES WERE DESTROYED. THIS DESTRUCTION ENDAGERED THE PRODUCTION OF FOOD. MANY PRIVATE FARMS AND AGRICULTURAL COMPLEXES WERE DESTROYED.

1. PIK "KOPAONIK" IN KURSUMLIJA;

2. PIK "MLADOST" IN GNJILANE;

3. THE AGRICULTURAL COMPLEX "MALIZGAN" IN DOLAC;

4. THE AGRICULTURAL COMPLEX "DJURO STRUGAR" IN KULA;

5. IN FOREST FIRES CAUSED BY NATO CRUISE MISSILES AND BOMBS, OVER 250 HECTARES OF FORESTS ALL OVER THE FR OF YUGOSLAVIA HAVE BEEN BURNED DOWN;

6. SEVERAL THOUSANDS OF FERTILE LAND, MANY RIVERS, LAKES AND UNDERGROUND WATERS HAVE BEEN POLLUTED DUE TO THE SPILLAGE OF OIL SPILLS AND PETROCHEMICAL SUBSTANCES;

3. PUBLIC AND HOUSING FACILITIES

TENS OF THOUSANDS OF HOUSING FACILITIES ALL OVER YUGOSLAVIA WERE DAMAGED OR DESTROYED, OF WHICH THE MOST STRIKING EXAMPLE OF DESTRUCTION OF HOUSING BLOCKS WAS IN ALEKSINAC (500 HOUSES), IN CUPRIJA (500 HOUSES), IN PRISTINA, KRALJEVO, RAKOVICA, NIS, KRAGUJEVAC, AND IN OTHER CITIES. STRIKING WAS ALSO THE DESTRUCTION OF PUBLIC FACILITIES AMONG WHICH ARE:

- THE BUILDING OF THE POST OFFICE IN PRISTINA (07.04.1999)

- THE REFUGEE CENTRE IN PRISTINA (07.04.1999)

- THE SKI CENTRE "TORNIK" ON ZLATIBOR MOUNTAIN (08.04.1999)

- THE DIVCIBARE MOUNTAIN RESORT (11.04.1999)

- THE "BACISTE" HOTEL ON MOUNTAIN KOPAONIK (12.04.1999)

- THE CITY HEATING PLANT IN KRUSEVAC (12-13.04.1999)

- THE CITY HEATING PLANT IN NOVI BEOGRAD (13.04.1999)

- THE METEOROLOGICAL STATION ON MOUNTAIN KOPAONIK DAMAGED (13.04.1999)

- FOUR LIBRARIES IN RAKOVICA: "RADOJE DAKIC", "ISIDORA SEKULIC", "MILOS CRNJANSKI" AND "DUSAN MATIC" (16.04.1999)

- THE REFUGEE CAMP " 7 JULI" IN PARACIN HAS SUSTAINED HEAVY DAMAGE.

CULTURAL-HISTORICAL MONUMENTS AND RELIGIOUS SHRINES

1. MEDIEVAL MONASTERIES AND RELIGIOUS SHRINES

- MONASTERY GRACANICA FROM 14TH CENTURY (24.03.-06.04.1999)

- MONASTERY IN RAKOVICA FROM 17TH CENTURY (29.03.1999)

- PARTIARCHATE OF PEC (01.04.1999)

- CHURCH IN JELASNICA NEAR SURDULICA (04.04.1999)

- MONASTERY OF THE CHURCH OF ST. JURAJ (BUILT IN 1714) IN PETROVARADIN (01.04.1999)

- MONASTERY OF THE HOLY VIRGIN FROM 12TH CENTURY AT THE ESTUARY OF THE KOSANICA IN THE TOPLICA - AREA OF THE MUNICIPALITY OF KURSUMLIJA (04.03.1999);

- MONASTERY ST. NICHOLAS FROM 12TH CENTURY IN THE AREA OF THE MUNICIPALITY OF KURSUMLIJA (04.03.1999)

- MONASTERY OF ST. ARCHANGEL GABRIEL IN ZEMUN (05.04.1999)

- ROMAN CATHOLIC CHURCH ST. ANTONIO IN DJAKOVICA (29.03.1999)

- ORTHODOX CEMETERY IN GNJILANE (30.03.1999)

- MONUMENTS DESTROYED IN BOGUTOVAC (08.04.1999)

- MEMORIAL COMPLEX KADINJACA (08.04.1999)

- MONASTERY VOJLOVICA NEAR PANCEVO (12.04.1999)

- MONASTERY HOPOVO, ICONOSTASIS DAMAGED (12.04.1999)

- ORTHODOX CEMETERY IN PRISTINA (12.04.1999)

- MONASTERY CHURCH OF ST. ARCHANGEL MICHAEL (16.04.1999)

2. CULTURAL-HISTORICAL MONUMENTS AND MUSEUMS

- SEVERE DAMAGE TO THE ROOF STRUCTURE OF THE PETROVARADIN FORTRESS (01.04.1999)

- SEVERE DAMAGE TO "TABACKI BRIDGE", FOUR CENTURIES OLD, IN DJAKOVICA (05.04.1999)

- SUBSTANTIAL DAMAGE TO THE BUILDINGS IN STARA CARSIJA (OLD STREET) IN DJAKOVICA (05.04.1999)

- DESTROYED THE ARCHIVES HOUSED IN ONE OF THE GOVERNMENT BUILDINGS IN BELGRADE (03.04.1999)

- MEMORIAL COMPLEX IN GUCEVO (LOZNICA)

- MEMORIAL COMPLEX "SUMARICE" IN KRAGUJEVAC

- VOJVODINA MUSEUM IN NOVI SAD

- OLD MILITARY BARRACKS IN KRAGUJEVAC - UNDER THE PROTECTION OF THE STATE (16.04.1999)

- THE OLD BRIDGE IN NOVI SAD - SYMBOL OF TORTURE OF SERBS AND JEWS IN 1941

The humanitarian catastrophe in Kosovo and Metohija and in the entire FR of Yugoslavia was caused by the NATO aggression. The aggression shows what happens when one violates the UN Charter and international law. Also, abuse of military force by NATO imperils international peace and

security, whereas international relations and international legal order received the most serious blow since the World War II.

For an efficient settlement of humanitarian problems, it is necessary to immediately halt the NATO aggression. The Federal Government of the Federal Republic of Yugoslavia and the Government of the Republic of Serbia have called all displaced persons and refugees to return safely to their homes. On 6 April, the Yugoslav authorities have declared a cessation of all anti-terrorist operations in Kosovo and Metohija, which represents an important step towards the settlement of humanitarian problems. At the meeting between the Vice-President of the Federal Government, Nikola Šainovic and Dr. Ibrahim Rugova of 6 April 1999, an accord was reached to act jointly in securing conditions for the return of displaced persons and refugees as well as in solving other humanitarian issues in cooperation with the ICRC and the UNHCR, including Yugoslav humanitarian organization.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 23 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit, enclosed herewith*, the letter of 23 April 1999, addressed by the Ambassador, Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office in Geneva to Mrs. Sadako Ogata, United Nations High Commissioner for Refugees. I would like to ask you to have it published as an official document of the fifty-fifth session of the Commission on Human Rights under agenda item 9.

(signed) Branko BRANKOVIC
Ambassador
Chargé d'affaires a.i.

* The annex is reproduced as received in the language of submission only.

Geneva, 23 April 1999

Mrs. Ogata,

I am addressing you upon instruction of His Excellency, Mr. Zivadin Jovanovic, Federal Minister for Foreign Affairs of the Federal Republic of Yugoslavia concerning the dramatic evolution of the situation in the FR of Yugoslavia as a result of the barbarian bombardment by NATO forces.

I would like to inform you and to draw your attention that refugee camps in Vojvodina, central Serbia and Kosovo and Metohija (Kula, Kursumlija, etc.) are being attacked ever more frequently by NATO aggressors.

In addition to the killing of 75 and wounding of 25 civilians, ethnic Albanians who were returning to their homes, another crime occurred on 21 April in Djakovica. Namely, on that very day, NATO aggressors attacked with several missiles the refugee camp accommodating Serbian refugees from Knin, killing 5 refugees, amongst which 2 children, and injuring 6 refugees.

For several days already , NATO forces are attacking only civilian facilities, including centers for supply of the Yugoslav Red Cross and of the Commissioner for Refugees of the Republic of Serbia who are providing humanitarian relief. Taking into account the fact that bridges, railways and roads have been uninterruptedly attacked by NATO forces from the very onset of the aggression, the supply of refugee camps with basic humanitarian relief and the securing of humanitarian relief to the ever increasing number of newly arrived displaced persons from Kosovo and Metohija is being seriously endangered.

The Government of the FR of Yugoslavia expects from you to condemn in the strongest terms the attacks perpetrated on refugee camps and supply centers of the Yugoslav Red Cross and Commissioner for Refugees of the Republic of Serbia. These attacks represent a crime against humanity. Their victims are refugees who were driven to leave their homes in Croatia several years ago as a result of brutal force of Croatian soldatesque. These refugees are once again subjected to genocide.

Please accept, Mrs. Ogata, the assurances of my highest consideration.

Branko Brankovic
Ambassador
Chargé d'affaires a.i.

Her Excellency
Mrs. Sadako OGATA
UN High Commissioner for Refugees
G e n e v a

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 26 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit, enclosed herewith*, a document entitled "Comments of the Federal Republic of Yugoslavia on the resolution E/CN.4/1999/L.34/Rev.1 adopted at the Commission on Human Rights on 23 April 1999". I would like to ask you to have it circulated as an official document of the fifty-fifth session of the Commission on Human Rights under agenda item 9.

(Signed) Branko Brankovic
Ambassador
Chargé d'affaires a.i.

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* The annex is reproduced as received, in the language of submission only.

COMMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA
on the Resolution E/CN.4/1999/L.34/Rev.1 adopted at the Commission on Human Rights on 23 April 1999

The Commission on Human Rights adopted on 23 April 1999, at its Fifty-fifth session, the Resolution E/CN.4/1999/L.34/Rev.1, "Situation of human rights in the Federal Republic of Yugoslavia, the Republic of Croatia and Bosnia and Herzegovina". The text of the Resolution (part relating to the FR of Yugoslavia, Kosovo and Metohija) is based on falsehoods and deliberately launched disinformation which were due to justify the NATO barbarian aggression against the FR of Yugoslavia.

The Resolution was adopted on 23 April 1999, on the very day the NATO barbarian soldatesque celebrated the 50th anniversary of its existence and commemorated the obvious defeat of its aggression against the FR of Yugoslavia.

The states which voted in favor of the Resolution E/CN.4/1999/L.34/Rev.1, (part relating to the FR of Yugoslavia, Kosovo and Metohija) supported:

- the NATO barbarian aggression against the sovereign and independent FR of Yugoslavia, thus violating the UN Charter and international law

- the genocide against the Yugoslav peoples

- the killing of innocent civilians, women, children, the elderly

- the destruction of schools, faculties, kindergartens, civilian facilities, bridges and factories

- the destruction of refugee centers and killing of refugees who found shelter in the FR of Yugoslavia

- mass exodus of refugees and displaced persons caused by NATO aggression

- the destruction of the Radio Television of Serbia and of seven privately-owned TV stations, which was aimed at killing the truth.

The adoption of the Resolution E/CN.4/1999/L.34/Rev.1 (part relating to the FR of Yugoslavia, Kosovo and Metohija) represents a disgrace for the entire UN system and its humane objectives. The Commission on Human Rights will be remembered through this Resolution as the body of the UN which contributed to this disgrace. Those member states of the Commission which voted in favor of the Resolution, annulled thus the signatures they had put down when acceding to the UN. By voting for the afore mentioned resolution, these countries have contributed to NATO's action aimed at destroying the United Nations.

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Fifty-fifth session
Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 26 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit, enclosed herewith,* a letter from His Excellency, Mr. Zivadin Jovanovic, Federal Minister for Foreign Affairs of the Federal Republic of Yugoslavia, addressed to His Excellency, Mr. Alain Dejammet, President of the Security Council of the United Nations. I would like to ask you to have it circulated as an official document of the fifty-fifth session of the Commission on Human Rights under agenda item 9.

(signed): Branko Brankovic

Ambassador
Chargé d'affaires a.i.

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* The annex is reproduced as received, in the language of submission only.

Belgrade, 24 April 1999

Mr. President,

It is a month today since NATO began its aggression against the Federal Republic of Yugoslavia. That aggression is the most flagrant violation of the Charter of the United Nations since the inception of the world Organization and a setback to the foundations of the international legal order, as well as a crime against peace and humanity.

For the sake of truth and history, I cannot but note that the Security Council has ignored several requests made so far by the Government of the Federal Republic of Yugoslavia, whether those made before the NATO aggression to prevent it or those made afterwards to condemn it and take measures to halt it. It is not difficult to predict what kind of consequences that is going to have for the future of relations in the world and for the fate of the United Nations itself.

Let me, however, remind you and the Council in brief of the facts testifying to the character and the past consequences of the NATO aggression.

NATO aggressors have concentrated primarily on civilian targets, directly endangering the lives and fundamental human rights of the entire population of Yugoslavia. NATO bombs dropped on the towns and villages to date have killed about a thousand civilians, including great many children. A few thousand civilians have sustained injuries and will be crippled for life. The mass killing of civilians in the mining town of Aleksinac, in Belgrade, Pristina and Nis, of passengers on an international passenger train in the Grdelica gorge as well as of refugees from Bosnia and Croatia in several refugee centres and massacre of a refugee convoy on the Djakovica-Prizren road as they returned home, and a countless other examples will forever bear witness to crimes against humanity. In doing so, the NATO aggressors have used weapons prohibited by international conventions, with children very frequently being the victims. Proof of it are sever children killed in Srbica, five shepherd boys killed in the village of Doganovici and a five-year old Milica Rakic killed in Batajnica - they all died of the sprinkle and delayed effect of cluster bombs. There is evidence also that NATO uses other internationally prohibited weapons. By systematically and massively bombing towns and villages NATO has caused an exodus of refugees. Prior to aggression 2,000 foreign representatives (KVM) and the personnel of humanitarian and other organizations left Kosmet, and with the onset of bombing and devastation of residential areas and civilian deaths, there started a flux of refugees.

H.E. Mr. Alain Dejammet
President of the Security
Council of the United Nations
New York

An assassination attempt made by NATO aggressors against the President of the Federal Republic of Yugoslavia on 22 April 1999 represents an organized terrorist act without precedent in the civilized world. That is a crime not only against a Head of a sovereign, independent State, but also a direct attack on the will of a European people and on the fundamental democratic values of the civilization. It is incomprehensible that the Security Council has not yet found it pertinent to condemn this criminal act which is, in itself, an attack on the foundations of international law.

Concurrently with the humanitarian, NATO has also created an environmental disaster threatening almost the whole of Europe, which was the subject of a separate letter that I addressed to the Secretary-General of the United Nations and to the relevant UN agencies.

The destruction of a dozen private radio and televisions stations as well as of Radio-Television Serbia, which was bombed on 23 April, is an expression of the preponderance of one opinion, the biggest aggression against freedom of thought and a disgrace to the civilization on the doorstep of a third millennium. Its purpose is self-evident: a media monopoly by NATO in order to manipulate world public opinion. This is more than a sign of alarm to those who care anything about truth and freedom, and a call for sobering up before the inquisition of NATO generals takes full control in their own countries and full control of the whole world.

Several thousand private homes and flats, some three hundred schools, dozens of hospitals and health institutions, hundreds of places of worship and cultural monuments have been destroyed. Almost a million pupils and students had to stop attending schools and universities. The destruction of civilian factories has meant that more than half a million workers are out of work and approximately two million people without income.

These are but a few indicators of the effects of NATO aggression. All the effects - humanitarian, economic, environmental and health - are hard to see right now. Many of them will be seen much more clearly with the passage of time. It is clear, however, the effects will not be limited to Yugoslavia only. NATO has breached the Charter of the United Nations and directly threatened, and continues to threaten, international peace and security. Nevertheless, this is not a sufficient warning to, and the reason enough for, its strategists to stop the aggression. What is more, however, NATO is trying, by combing pressure and various promises - to enlarge the number of participants in the aggression and, in particular, to draw the neighbouring countries into its plans. Simultaneously, attempts are currently underway in the Security Council to force - under the guise of alleged care for the refugees and guarantees for their safe return - a post festum legalization of aggression and to involve even the United Nations in the crime against peace and humanity.

In view of the above, I urge you once again to take initiative to have the Council, in accordance with its responsibilities spelled out in the Charter, to condemn in the strongest terms the NATO aggression, violation of the Charter and international law, and to take specific steps to end the aggression without delay. This will, at the same time, contribute to the creation of conditions for restoring peace and stability in the region and for settling all issues by political means.

Yours respectfully,

Zivadin Jovanovic
(Signed)

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Agenda items 5 and 9

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 26 April 1999 from the Permanent Representative of India to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

We have seen a letter dated 15 April 1999 addressed to you by the Permanent Representative of Qatar transmitting a statement adopted by the Organization of the Islamic Conference (OIC) Contact Group on Jammu and Kashmir on 9 April 1999, along with a memorandum submitted to this Group by the self-styled "true representatives of the Kashmiri people".

The OIC Contact Group has no locus standi to comment on the internal affairs of my country.

In a democracy, representatives of the people can only be elected; they can neither be self-appointed nor designated by foreign countries. The Indian State of Jammu and Kashmir has a popularly elected government, which alone enjoys the credentials to represent the people of Jammu and Kashmir.

The Government of India totally rejects the baseless allegations contained in the statement and the memorandum referred to above.

I would like to request that this letter be circulated as an official document of the fifty-fifth session of the Commission on Human Rights under agenda items 5 and 9.

(Signed) Savitri KUNADI

Ambassador
Permanent Representative

GE.99-13168 (E)

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Item 9 of the agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 26 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to convey to, enclosed therein*, the document entitled "Assessment of the NATO aggression against the Federal Republic of Yugoslavia based on the standards of the FRY's internal legal system and international law" issued by the Federal Constitutional Court of the Federal Republic of Yugoslavia on 18 April 1999. I would like to ask you to have it published as an official document of the fifty-fifth session of the Commission on Human Rights under agenda item 9.

(Signed) Branko BRANKOVIC
Ambassador
Chargé d'affaires a.i.

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* The annex is reproduced as received in the language of submission only.

ASSESSMENT OF THE NATO AGGRESSION AGAINST THE FEDERAL REPUBLIC OF YUGOSLAVIA BASED ON THE STANDARDS OF THE FRY'S INTERNAL LEGAL SYSTEM AND INTERNATIONAL LAW

The Federal Constitutional Court composed of President Milomir Jakovljevic and Justices Milan Vesovic, Arandjel Markicevic, M.Sc.Iur. Dr. Milutin Srdic and Dr. Branislav Tomkovic, acting in accordance with its constitutional function to protect constitutionality and legality, human rights and freedoms established by the FRY Constitution, international treaties and generally accepted rules of international law, and in accordance with the provisions of Article 16, paragraph 2, of the FRY Constitution, at its session on 18 April 1999,

ESTABLISHED

the following regarding the North Atlantic treaty Organization's armed assault against the Federal Republic of Yugoslavia:

1. On 24 March 1999, NATO launched an armed assault against the Federal Republic of Yugoslavia, in contravention with the United Nations Charter. NATO has undertaken massive and continuing air strikes against the population, towns and villages, economic and other civilian facilities, which is an act of aggression against a sovereign state - member of the United Nations.

2. By these continuing acts, the aggressor has violated the United Nations Charter, one of the main objectives of which is to maintain international peace and security. The UN Charter specifies that only the United Nations are authorized to take efficient collective measures to prevent and eliminate threats to peace, acts of aggression and other violations of peace. Under the UN Charter, only the Security Council is competent to decide whether there is imminent threat to peace, violation of peace of aggression to make recommendations and take decisions of measures to be taken, including the use of the armed force pursuant to the principles established by the Charter, in order to maintain the established international peace and security.

In accordance with its own acts, NATO may resort to arms, or the armed force, but only in case of armed attack against a NATO member state.

Rules and principles of international law do not, in any case whatsoever, give the authority to NATO alliance or any other military or civilian authorities and organizations to apply political criteria and freely assess that they can use force to kill people and destroy goods. NATO is now destroying goods that are invaluable and essential for the life and work of the Yugoslav citizens.

According to the United Nations Charter, the UN Organization and its member states are obliged to seek to implement the above mentioned objectives in accordance with the principles of sovereign equality of all

members, so as to ensure the exercise of the rights and obligations under the UN Charter.

The UN Charter forbids the use of force against a sovereign state that has not committed aggression against another state. This arises from the principles established by the provisions of Article 2, paragraph 1, of the Charter, which stipulate the obligations of the members of the United Nations:

- to resolve their international disputes by peaceful means, so that international peace and security, and justice, are never violated (item 3);

- for the member states to refrain in their international relations from the use of threat of force or the use of force against territorial integrity or political independence of any state (item 4);

- not to interfere, in any manner, in matters falling within internal competence of each state, and not to request from member states to seek to resolve such matters on the basis of the United Nations Charter (item 7).

In committing the aggression, NATO circumvented the competent authorities of the United Nations as the only organization authorized to take prescribed measures in the case of imminent threat to peace, violation of peace and aggression (article 39 of the Charter).

3. With their activities preceding the aggression and by the act of aggression itself, NATO members and certain European countries within the Partnership for Peace, have violated the 1978 Helsinki Final Act of the Conference on Security and Cooperation in Europe, which stipulates that member state shall:

- refrain from any interference, direct or indirect, individual or collective, in internal and external affairs falling within the national competence of individual states, regardless of their mutual relations, and that they shall refrain from any form of armed intervention or threat with armed intervention against another member state, as well as from undertaking political, economic or other coercion;

- refrain from the provision of direct or indirect assistance to terrorist activities or sabotage or other activities aimed at forceful overthrow of the regime of another member state;

- respect the principle of territorial integrity of member states;

- respect the principle of peaceful settlement of disputes;

- undertake to condemn and eradicate terrorism,

- contribute to the facilitation of free and broader dissemination of all types of information and promotion of conditions of work of journalists.

4. By its armed intervention, NATO is killing and hurting innocent citizens of the Federal Republic of Yugoslavia, members of all ethnic communities, jeopardizing their health, destroying bridges and railroads, railway tracks, trains, airport and port facilities, electric power plants and transmission lines, telecommunications facilities, water supply and sewage systems, schools and universities, children's institutions, hospitals and health institutions, social welfare institutions, cultural and religious facilities, plants and factories, oil refineries and gas pipelines, chemical plants, TV buildings, stations and transmitters, towns and villages, and polluting rivers and soil, with unfathomable environmental consequences. As a result, the population is forced to leave, after which refugee convoys are bombed.

5. The act of aggression and its enormous tragic consequence violate the rules and principles of the General Declaration on Human Rights:

- the rights to life, freedom and personal security, by massive killings, infliction of bodily injuries and erosion of health of a large number of the FRY citizens (Article 3);

- to right to possess property and not to be arbitrarily deprived of property, by massive destruction and infliction of damage on the property of legal and natural persons in the FRY territory (Article 17);

- the right to the freedom of opinion and expression, as well as the rights to request, receive and disseminate information and ideas via any media and regardless of boundaries (Article 19);

- the right to exercise cultural rights essential for human dignity and free development of personality (Article 22);

- the right to work, to freely chose once profession, to be provided with fair and satisfactory work conditions and to be protected against unemployment (Article 23);

- the right to schooling and education (Article 26).

The act of aggression has also violated the standards of the International Covenant on Civil and Political Rights (Articles 1, 5, 10 and 15), the International Covenant on Economic, Social and Cultural Rights (Articles 3, 10, 12, 13, 14, 14, 16), the acts of the 1990 Paris Charter for New Europe regarding human rights, democracy and rights of states, friendly relations among states, security, human dimension, environment and culture, the European Convention for the Protection on Human Rights and Liberties and other documents of international law.

The unprecedented aggression has made it impossible for the citizens of FR Yugoslavia to move in the territory of their own state, to use their own property by themselves or together with other people, to exercise economic and natural rights essential for their dignity and their personal development in accordance with the organization and resources of their state. At the same time, the right to the protection of children and family, the citizen's right to enjoy cultural goods, to participate in scientific progress and to enjoy goods arising therefrom, and an array of other interconnected rights and freedoms, have been violated.

6. By its mass destruction of towns and villages and killings of civilians, NATO has committed war crimes as serious violations of rules of war law, which are prohibits by the 1899-1907 Hague Conventions and the Geneva Conventions on the Protection of Victims of War (Articles 50, 51, 130 and 147), and the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

7. The principles, rules and norms of the Declaration on the Rights of Members of National or Ethnic, Religious or Language Minorities and the Framework Convention on the Protection of National Minorities had been ipso jure and ipso facto ensured and implemented in FRY in the period preceding the aggression. This is confirmed by the fact that the Federal Constitutional Court had not received any reasonable request for the protection of national minorities, which is a prerequisite for addressing the European Court for Human Rights. Proceeding from the fact that the Federal Republic of Yugoslavia is a multiethnic community, the Constitution of the Federal Republic of Yugoslavia and constitutions of the member republics contain all normative solutions envisaged by the said international legal acts. In this respect, the Federal Constitutional Court states that the Federal Republic of Yugoslavia has provided all the necessary prerequisites and created all conditions for the exercise of the established national minority rights. Members of national minorities enjoy the right to their own national or ethnic, cultural, religious and language identity in the territory where they live, the right to use their own language and scripts, to practice their own culture and religion, to perform religious ceremonies, to establish their own associations. They are guaranteed equality before the law and equal legal protection; traditional local names of streets and other signs are written in local languages; the freedom of expression includes the freedom of conviction and reception and dissemination of information and ideas in minority languages. They are guaranteed the right to establish and use their own mass media, cultural, educational, language and religious institutions, and to establish and foster unhindered relations and maintain peaceful contacts with co-nationals outside the Yugoslav borders, as well as the right to participate at the national, regional and local levels.

All of the above mentioned rights are exercised in the authorities of the Federal Republic of Yugoslavia, in the member republics, in the autonomous provinces of Vojvodina and Kosovo and Metohija, that is, in their local self-government authorities.

Nevertheless, under the binding international law, each member of a national minority is obliged to respect the national legislation and the rights of others, especially of members of the majority and other national minorities (Article 20 of the Framework Convention of the Protection of National Minorities - Strasbourg, 1995).

The aggressor's acts cannot contribute to the exercise of the established rights of national minorities. On the contrary, they impede the exercise not only of the rights of national minorities but also of fundamental universal civil liberties and rights and render such exercise impossible.

8. Based on the above stated, the Federal Constitutional Court has established that the unjust, illegitimate and illegal NATO aggression against the FR Yugoslavia has violated the international public law and the international legal order. The imposition of unlawfulness instead of law has also jeopardized peace in the international community at large.

(Signed) Milomir Jakovljevic, m.sc.iur.
PRESIDENT OF THE FEDERAL
CONSTITUTIONAL COURT

Sl.No. 1/4-99
18 April 1999
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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 11 March 1999 from the Permanent Mission of the Republic of Croatia to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights

The Permanent Mission of the Republic of Croatia to the United Nations Office in Geneva presents its compliments to the secretariat of the Commission on Human Rights and has the honour to forward an aide-memoire by the Government of the Republic of Croatia regarding the report (E/CN.4/1999/42) of the Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia.

The Permanent Mission of the Republic of Croatia asks the secretariat kindly to circulate the attached aide-memoire* as an official document of the fifty-fifth session of the Commission, under agenda item 9.

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* The annex is reproduced as received, in the language of submission only.

GE.99-13175 (E)

AIDE-MEMOIRE

by the Government of the Republic of Croatia addressed to the UN Special Rapporteur of the Commission on Human Rights on the human rights situation in Bosnia-Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

1. In this Aide-Memoire the Croatian Government gives its comments on some allegations in the Report by the Special Rapporteur of the Commission on Human Rights on the human rights situation in Bosnia-Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia to be presented at the 55th session of the Commission.

2. As already noted in the earlier comments by the Croatian Government of 20 January 1999 on the Special Rapporteur=s Report presented at the session of the UN General Assembly last year, the Croatian Government still awaits a comprehensive Progress Report on the human rights situation in the countries covered by the Special Rapporteur=s mandate established back in 1992.

Although aware of the technical problems that the UN are faced with in giving an updated account of the human rights situation in the countries covered by the Special Rapporteur=s mandate, we wish to stress that the Report describes the situation in these countries until mid-December 1998 and that meanwhile over the past three months a series of improvements have been made in Croatia in the area of human rights to an extent which makes the latest Report by the Special Rapporteur outdated. For that reason we believe that an annex to the Report will be prepared to cover the latest developments.

3. The Croatian Government again points to the incongruence appearing as a result of the combined reporting from these three countries where the situation greatly differ in terms of human rights protection and promotion. As an example, in the introductory part of the Report, point 2, it is stated that the regional offices often operate under difficult circumstances, although there is no doubt about the fact that the regional Office of the High Commissioner for Human Rights in Croatia has a safe and free access to any areas or institutions it wants to visit, as confirmed in her monthly field reports. After all, in para. 37 (introductory part related to Croatia) the Special Rapporteur himself expresses his thanks to the Croatian Government for its cooperative assistance to the regional Office of the High Commissioner for Human Rights.

As already mentioned, due to the ignored differences in the human rights achievements among the countries covered by the Special Rapporteur=s mandate, there is a lack of balance in Special Rapporteur=s reports, notably in his latest report. We hope, however, that this will change, especially after the status of the regional Office of the High Commissioner for Human Rights in Zagreb has been regulated and following the start of the technical cooperation project to be soon agreed between the Croatian Government and her Office.

RETURNEES AND REFUGEES

4. Implicitly criticized in part B. *Returnees and refugees* is the discriminatory way in which the Programme of Return is implemented. The Programme of Return, like the subsequent complementary regulations, was adopted after long negotiations and in cooperation with international organizations, especially in the context of the respect for human rights and non-discrimination of the Croatian Serbs returning or willing to return to Croatia. This Programme unconditionally guarantees all Croatian citizens to return to their homes, and it is carried out in

practice at a rate permitted by the available funds provided from the national budget and with the help of the international community, with due respect for the personal choice of individuals and families concerned. Besides, we find the Report=s approach to the problem of return rather one-sided, focused as it is on the Serbs of Croatian citizenship willing to return, whereas the problems of the Croats, also Croatian citizens, are ignored. It should be noted that all those still having the refugee status in Croatia are under the care of the Croatian authorities in accordance with the Croatian legislation and international conventions.

5. Regarding the part related to the tenancy rights, it was a topic of many discussions with the relevant representatives of the international community. As a legal institute *sui generis* the tenancy right ceased to apply upon expiration of time limits legally set for all Croatian citizens. Considering the specific situation after the end of war operations, the Croatian Government wanted to give a chance to return to all persons willing to do so, and, basically, that was the purpose of the Programme of Return and the ensuing regulations. The persons arrived too late to make use of their earlier tenancy rights can exercise them within the Programme of Return and the appurtenant Mandatory Instructions.

6. As for the concern expressed about the procedure of obtaining the Croatian personal documents, no person has been denied the Croatian citizenship for reasons of discrimination, but for reasons of non-fulfilment of required legal conditions. Each applicant is guaranteed equal and fair procedure as well as court protection. The Law on the Croatian Citizenship defines the conditions for granting the Croatian citizenship in compliance with the European legal standards.

7. The provisions of the Law on the Croatian Citizenship conform with the Convention on

the Abolition of All Forms of Racial Discrimination, especially in respect of its part related to the prevention of creating stateless persons. These provisions are consistently applied in practice.

8. As for the mined areas, a result of war operations during the aggression against Croatia, the Government is putting utmost efforts in implementing its demining programme. However, considering the enormous costs involved in it, without a more significant international aid it will not be possible to solve this problem over a short period of time. That is why the process of safe return has been slowed down in some places and areas.

JUDICIAL PRACTICE

9. As to part C. Judicial Practice it should be pointed out that the Croatian courts act in compliance with the Constitution and current legislation, as well as international treaties which have been incorporated into Croatia=s legal system. Court decisions are independent of any considerations such as race, colour of skin, gender, language, religion, political or other beliefs, national or social origin, property, birth, education, social position or other considerations concerning the parties involved in a procedure. Consequently, courts cannot inappropriately reflect ethno-political factors, as stated in the Report. According to the Constitution the judicial authority is wholly independent. Judges are appointed, revoked or subject to disciplinary proceedings by the State Judicial Council.

10. In order to improve the efficiency of the State Judicial Council, the Ministry of Justice drafted amendments to the Law on the State Judicial Council. Under these amendments the

chairman or a member of the Council could be revoked even before expiry of his/her mandate in case of serious violation of the Constitution or laws of the Republic of Croatia. Also proposed is a new institution of judicial councils at courts. The proposed amendments precisely define disciplinary proceedings and penalties as well as the powers of the bodies conducting disciplinary proceedings. Before its presentation for parliament debate this final draft was sent to the Council of Europe whose experts have positively evaluated it.

In view of the above, we feel that the adoption of the proposed amendments to the Law on the State Judicial Council would in no way lead to a greater control of the judiciary by the executive power, as suggested in the Report, and that these amendments would not affect the independence of the judiciary.

11. Concerning the disciplinary procedure against the former chairman and judge of the Supreme Court Dr. Krunislav Olujiæ, the Croatian Government, based on its powers under Article 23, para. 1, subpara. 3 of the Law on the State Judicial Council, requested the Council on 13 November 1996 to institute disciplinary proceedings against him for serious offences committed under Article 20, para 2, subpara. 6 of the Law on the State Judicial Council. Pursuant to the said Law the Council instituted a procedure against the accused and passed the Decision No. I-DP-2/1966 dated 14 January 1997 dismissing Dr. Krunislav Olujiæ from his duty of chairman and judge of the Supreme Court. Pursuant to Article 20, para. 3 of the Constitution and Article 26 of the Law on the State Judicial Council the defendant in the disciplinary proceedings appealed to the Parliament House of Counties for the protection of legality, i.e., against the said ruling of the Council. On 19 February 1997 the Parliament House of Counties confirmed the Council=s decision to dismiss the plaintiff from his duty of chairman and judge of the Supreme Court and thereby from his duty on the Council.

Following the said decisions by the State Judicial Council and the Parliament House of Counties, Dr. Krunislav Olujiæ, through his attorneys, filed a constitutional complaint of 21 March 1997 with the Constitutional Court which found that the plaintiff=s constitutional rights had been violated and on 17 April 1998 passed its Decision accepting the constitutional complaint and revoking the decisions of both the State Judicial Council and the Parliament House of Counties, whereby the case was returned to the State Judicial Council for a renewed procedure. The renewed procedure was carried out with new evidence produced and the defendant was found guilty and dismissed from the duty of the Supreme Court=s chairman and judge.

12. In order to address the current problems encountered by the judiciary, including the backlog of work, last October the Ministry of Justice submitted a report to the Parliament House of Representatives proposing concrete measures designed to improve the situation and overcome the problems. At its session of 4 December last year the Parliament House of Representatives accepted the Ministry=s report and thereby adopted its proposed measures.

We expect that the implementation of the said measures will create a more favourable climate for the work of the courts and other judicial authorities and enhance their efficiency. During his latest visit to Croatia the Special Rapporteur was briefed in detail on the mentioned reforms.

13. As for the objections in the Report concerning the court fees, it should be noted that under the earlier Law on Court Fees superseded by the subsequent 1995 Law on Court Fees the fees were unreasonably low (e.g. only Kn 6 for filing a criminal suit) to the effect that frivolous suits were piling up. That was the rationale behind the passage of the new Law on Court Fees. However, the Law on Court Fees and the appurtenant Court Fees Tariff provide for even wider

exemptions from the court fees. The beneficiaries are socially vulnerable members of the community. Thus court protection is assured to all categories of citizens. For example, always exempted from the court fees are displaced persons and refugees, holder of welfare cards, war invalids, etc., whereas others can produce evidence and make a deciaration of their property status making them unable to pay the court fee. Therefore, the Law is combined with strong social mechanisms. Furthermore, a court can exempt a person from the court fee at its own discretion by taking into account all relevant circumstances, especially the value of the dispute, the number of his/her dependents, his/her income and the income of his/her family members. During the practical application of the Law it was found that the persons listed in Article 16 as eligible for court fee exemption did not include the pensioners receiving additional welfare allowance and being in the same position as persons with the welfare cards, so the amendments to the Law have extended this right to exemption to such pensioners.

Also, by changing some item numbers in the Court Fees Tariff, the court fees in the proceedings involving civil status rights have been reduced. Otherwise the court fees have been reduced by combining the increased ceiling of the dispute value with the same retained amount of the fee or with the reduced amount of the fee. Thus in some cases, like those involving low-value disputes, the court fees have been reduced as much as threefold. On the whole, the introduced changes in the Court Fees Tariff have brought down the fees by about 40% on the average.

14. The objections mentioned in the report that some cases are resolved expediently while others remain unprocessed for a long time and that this indicates external interference - are not founded. Cases are being processed in accordance with the Rules of courts on the basis of their dates of submission. The order of priority is regulated by law (housing, maintenance, labor disputes etc.).

It can be generally said that long duration of court proceedings depends on numerous other factors, like the type and complexity of cases, extensive presentation of evidence in individual cases etc.

15. Concerning the mention of vacancies at courts, note that of a total of 1571 post in the Republic of Croatia, 1277 or 81.3% are being occupied by judges. Due to the lack of interest for certain areas, primarily those devastated during the Serbian aggression against the Republic of Croatia, there is a shortage of candidates, although the Ministry of Justice has repeatedly published advertisements. Note that according to the Constitution and the Courts Act, a judge may not be transferred against his or her will, so we could not cope with this problem by transferring judges. However, since the enaction of the Judicial Wages Act, we have noted a considerably increased interest in the vacant judge posts even in the unattractive areas. Besides, it seems that positive selection of judges will prevail in staffing the courts, because our recent experience shows that more than a hundred candidates have applied for the several vacancies. Such interest should make it possible to select the best candidate for the job.

16. Concerning the allegation that judges have no adequate staff and equipment at their disposal, note that all expenditures are being realized in accordance with the plan for each year, depending on the funds allocated from the budget which are not unlimited. Pursuant to the Courts Act, the Ministry of Justice - which provides material, financial, spatial and other conditions for the operation of courts - does its best in order to provide the best possible conditions to all courts alike.

17. Concerning the allegation that judicial decisions on the repossession of property remain

unenforced for several years despite numerous court orders for eviction and other eviction orders, note that the seizure pursuant to the final court judgements is executed under the Seizure Act. To improve it, Draft Amendments to the Seizure Act and the Bankruptcy Act were prepared and adopted by the Parliament on March 12, 1999.

18. Concerning the allegation that municipal courts in the Croatian Danube region bar the public from their hearings, note that pursuant to Art. 117 of the Constitution of the Republic of Croatia court hearings are public and court judgements are passed publicly in the name of the Republic of Croatia. Public can be barred from the hearings in general or just from one part of the hearings if minors are on trial or for the protection of privacy of the parties, or in marital disputes and proceedings concerning guardianship and adoption, or to keep a military, official or business secret, and for the sake of national security and defense. Openness to public is guaranteed by the aforementioned provisions and the Civil Procedure Act and the Criminal Procedure Act. We believe that nobody can order or instruct any court to bar the public from its hearings, given the autonomy and independence of courts provided by the Constitution and law. However, these allegations also constitute a sweeping judgement, because there is no indication to a specific court and case where the public was barred for no reason.

19. Concerning the cooperation between courts and the representatives of international organizations, the Ministry of Justice does its best - starting from the Memorandum of Understanding signed between the Government of the Republic of Croatia and the OSCE - to make such cooperation as good as possible. We have always emphasized that such cooperation must take place in accordance with the Constitution and law of the Republic of Croatia, particularly taking into consideration the autonomy and independence of courts in the Republic

of Croatia. Such attitude of the Ministry of Justice is contained in the circular letter of January 30, 1998, sent to all presidents of County Courts in regard of the cooperation with OSCE. The Ministry of Justice had a meeting with the representatives of OSCE on June 9, 1998, to discuss cooperation with Mr Tim Guldimann, head of the OSCE Mission, at which the mutual cooperation was positively valued.

WAR CRIMINALS TRIALS

20. Concerning the war criminals trials, and contrary to the allegation contained in item 48 of the report that despite the fact that the adoption of the General Amnesty Act in 1996 was evaluated as a positive step toward conciliation the ambiguity and uncertainty as to the implementation of the Act continue, and that in the meantime many war crimes cases remain unsolved - we believe that the aforementioned Act is being fully complied with and implemented in the Croatian court practice.

21. According to the information available so far, courts in the Republic of Croatia have issued decisions on terminating criminal prosecution and proceedings in more than 18,000 cases (18,314 by March 1, 1999), 13,575 in the Croatian Danube region alone. In agreement with the representatives of the international community and the Joint Municipal Council in Vukovar, the aforementioned decisions were served to the persons to whom they related.

22. The Croatian side pointed out, on several occasions, the facts which are of relevance in the implementation of the Act, especially the fact that it does not apply to the war crimes and general crimes unrelated to the armed rebellion. Likewise, we noted that this Act is being further

implemented, and that in a number of cases proceedings were at the stage of appeal, that the competent courts are examining each individual case and deciding on the application of the General Amnesty Act.

23. Concerning the allegation of many unresolved war crimes cases, the fact is that the competent judicial bodies, pursuant to a larger number of reported cases, instituted proceedings for war crimes committed during and after the Storm military and police action. Information on their number, content and course may be requested and obtained from the competent courts, as all representatives of the interested international organizations have been instructed to do. Thus, it is not true that perpetrators of crimes during or after the 1995 Storm operation were not prosecuted. Data collected from the County Courts as early as in 1996 already gave clear indication as to the number of cases, their stages and proceedings. Immediately after the Storm operation, 1005 cases were examined, prevailingly against persons of the Croatian origin. According to the most recent data, a total of 2670 cases were opened after the Storm operation, of which 278 are being investigated, 1306 are at the first stage of proceedings, and 1086 cases have been finally completed.

24. Concerning this part of the report, it can only be concluded that there is a lack of knowledge of the way the criminal courts operate in the Republic of Croatia, and that there is by no means any lack of cooperation on the part of the Croatian authorities who are very much interested in settling any disputed issues to mutual satisfaction.

25. Concerning the Šodolovac Group, we note that the Ministry of the Interior proceeded pursuant to a court order and within its legal powers. As we reported earlier, the Osijek-Baranja

Police Department - pursuant to an APB of August 28, 1998 - arrested Vujo Halavanja (born 1953), _eljko Keskenoviæ (1951) and Pero Kliékoviæ (1953) in Šodolovci and brought them in for investigation. After the interrogation, the police was informed that all three were released on August 31, 1998. Concerning the allegation that the main hearing set for September 19, 1999, was postponed, but that a new date has not been set, note that the Ministry of Justice, as a part of the executive branch, has no authority to influence the course of the main hearing in criminal proceedings, or the establishing of guilt and pronouncing sanctions, as representatives of the international community have been informed on several occasions in contacts with the representatives of the Ministry of Justice.

26. Concerning the trial of Goran Vušuroviæ from the Šodolovac Group, note that the defendant Goran Vušuroviæ was convicted of war crime by the final judgment of the County Court in Osijek, and that he is in custody of the court because the Penal Code provides that custody for persons convicted of war crimes is obligatory.

In regard of the legal matter in this case, the competent County Court in Osijek proceeded pursuant to the relevant accusation charge of the County Public Prosecutor's Office in Osijek, while in regard of the custody the provisions of the Criminal Procedure Act have been fully respected, so that in this respect the Ministry of Justice, as a part of the executive branch, has no possibility of intervention in the sense of influencing the court decision on extending the custody. This case is being continuously worked on, and the setting of the date for the hearing in the Vušuroviæ case depends on the military expert witness who is to submit his findings and opinion on the artillery pieces which had been used to shell Đakovo and Osijek. For the expert witness to be able to present relevant and concise findings, delimitation maps from the time of the so-called cease-fire must be procured. These maps are kept at individual ministries, and it will take

some time to obtain them.

27. The allegation that international and local observers of the court proceedings and lawyers (in the so-called Split case) have noticed deficiencies in the application of international standards of fair trial, such as presumption of innocence, the lack of evidence for the alleged offence, and the failure of the court to prove the alleged war crimes as charged, represent meddling with the jurisdiction of the judicial power which in all legal systems, including the legal system of the Republic of Croatia, is the only one authorized to evaluate the quality of the evidence presented. We, therefore, decline the objection that international observers noted a lack of evidence and the failure of the court to prove the alleged war crimes as charged, because nowhere in the world are international observers the ones who are to decide on the guilt of individuals in criminal cases and on the sanctions for criminal offences.

FREEDOM OF EXPRESSION AND INFORMATION

28. In regard of the item E. *Freedom of Expression and Information*, the Croatian Ministry of the Interior has initiated an investigation into the origin of forged and falsified documents on tapping which have appeared in some media. In this regard, the Ministry has brought criminal charges against persons who published documents classified as ***state secret***. On several occasions the Ministry of the Interior has replied, in writing, to several queries of MPs on the alleged tapping of journalists, and the Minister of the Interior answered, in both Houses of the Croatian Parliament, on MP=s questions related to this issue.

PERSONAL FREEDOM AND SECURITY

29. As to the item G. *Personal Freedom and Security*, the Ministry of the Interior has adopted a responsible and professional approach to resolving the issue of establishment of legal order and normalization of security on the previously occupied Croatian territories, while respecting and applying all guidelines laid down by international Conventions on the protection of civilians and their property. Disciplinary and penal measures have been taken in all identified cases in which police officials overstepped their authority. Individual incidents do not jeopardize generally favourable state of public order and security in these parts of Croatia where the Croatian police have assumed all necessary safety and administrative functions within their competence.

LABOUR-RELATED RIGHTS

30. In the part H. *Labour-related Rights*, it is emphasized that the reasons for difficulties in running businesses lies in the basic factors such as the war consequences and war damage, as well as problems of transition and adjustment to market economy, and not in protectionist conditions. The Croatian Government has been taking a number of measures for solving the problems related to liquidity in economic and other entities and to rehabilitation of companies in order to make them competitive. It goes without saying that problems with liquidity and difficulties in running business entail problems in paying salaries to employees as creditors. Companies which do not pay salaries for a longer time are actually not working, are inactive and involved in bankruptcy or liquidation procedures. Despite the fact that employees do not receive their salaries when they do not actually work, their social, health and old-age pension insurance rights are not denied them because they are formally employed. They can exercise their right to health care for themselves and their dependants, as well as the right to old-age pension and disability insurance. They can also exercise their right to social welfare benefits as they are not receiving their regular incomes.

31. The laws and the practice in the Republic of Croatia consistently follow the standards of the freedom of association and activity (Convention of the 87th International Labour Organization). It is not true that the Supreme Court has banned a strike organized because of non-payment of salaries. However, in one specific case, the Supreme Court, as court of appeals and not a court whose ruling establishes precedents, has ruled that strike in one Croatian company was illegal on the basis of facts relevant only to this specific case and from which no general conclusions can be made. The right to strike is

defined by the protection of economic and social interests and not of legal issues. According to the Croatian legislation, the right to strike is defined in a very wide sense. Whether a legal issue, such as the issue of salaries regulated by work contract or collective agreement, exceeds the legal framework and becomes an issue of economic and social interest, will be decided by a competent court in each specific case, if the lawfulness of the strike is contested by an appeal to a competent court. All legal remedies were not exhausted in the specific legal matter mentioned in the Report, so it cannot be stated with certainty that the judgement of the competent court would eventually be the same as the Supreme Court=s ruling.

32. Representatives of Union enjoy full protection within their union activities. It is wrong to draw conclusion on the basis of a single, private civil lawsuit on the jeopardized rights of union representatives in matters which do not concern violation of rights of a union representative unless he or she acted within his union activities. Without knowing the facts and the court=s opinion, each allegation on the abuse of a union representative is pure speculation.

33. Allegations that certain provisions of the relevant Agreement between the Government and trade unions are not in force are not true. On the contrary, agreements with trade unions are incorporated in the Government=s policy such as the minimum salary, income tax system, tax allowances for dependants, salaries of national budget beneficiaries etc. In the specific case, it concerns the agreement on the work of courts in labour disputes which was executed in comparison to the organization of Councils for labour disputes, and in comparison to prepared drafts of relevant laws such as the Bankruptcy Act, the

Seizure Act, the Confiscation Act. In relation to the consumer basket, used by the state statistics and trade unions associations, the work of mixed government and union experts on the harmonisation of criteria and standards is underway.

GENDER EQUALITY

34. As to the part I *Gender Equality*, the Croatian Government Commission for issues of equality is pleased with the commendation by the Special Rapporteur as to the national policy for the promotion of equality. Many measures provided by the national policy have been carried out and are producing their first positive results.

35. Considering the protection of privacy guaranteed under para 2 of Article 102 of the Penal Code and realizing that this might have certain consequences in practice, the Commission has entrusted the Ministry of Justice with following the implementation of this provision and to determine whether it has any influence in the practice. It is well known that women are the main victims of sexual abuse and if it is determined that women are thereby in a less favourable position and that there is gender discrimination in practice, certain measures for amending the legislation will be taken, as provided in item 6.a) of the National Policy for the Promotion of Equality.

36. The Croatian Government Commission has made statements on several occasions in relation to the case of sexual abuse at work of Ms Danci Tripalo, the patients and employees of the Clinical Hospital in Split. The Commission has forwarded to the Ministry of Health a request for a speedy examination of the case.

37. Since there are no official statistics on the sexual harassment at work and since this issue should be given more attention, the Commission will, in the forthcoming period, encourage efforts made by several NGOs in raising the level of consciousness of and in combating sexual harassment at work. An elaboration of a new national policy will certainly include this field as well.

38. When adopting the National Policy for the Promotion of Equality, the Croatian Government Commission for equality issues has observed that there is an uneven representation of women in the political and economic life of the Republic of Croatia. Therefore, the National Policy has taken a number of measures for the improvement of the position of women in these fields, and in November 1998 a two-day gathering *Representation of women in the political life of the Republic of Croatia* took place. Addresses by eminent experts in the fields of political, economic and cultural position of women have been included in the brochure to be printed in April 1999.

30 March 1999

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COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 19 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit, enclosed herewith*, the comment of the Federal Republic of Yugoslavia in regard to the report of Mrs. M. Robinson, United Nations High Commissioner for Human Rights, on the situation of human rights in Kosovo, Federal Republic of Yugoslavia. I would like to ask you to have it circulated as an official document of the fifty-fifth session of the Commission on Human Rights under agenda item 9.

(signed) Branko BRANKOVIC
Ambassador
Chargé d'affaires a.i.

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* This annex is reproduced as received, in the language of submission only.

GE.99-13350 (E)

COMMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA
in regard to the Report of Mrs. M. Robinson, UN High Commissioner for Human Rights "Situation of Human Rights in Kosovo, FR of Yugoslavia"

The Report on the "Situation of Human Rights in Kosovo, FR of Yugoslavia", presented by the UN High Commissioner for Human Rights, Mrs. M. Robinson on 16 April 1999 at the Commission on Human Rights, was drawn solely on the basis of reports from newspapers and TV media from those countries that are taking part in the brutal aggression against the Federal Republic of Yugoslavia, including NATO, Pentagon and Great Britain Foreign Office briefings. It is known that the function of these media and purpose of these briefings are to justify the savage and inhuman aggression against the FR of Yugoslavia and the bombing of its territory and to support further escalation of the aggression.

The report based on such information puts the Commission on Human Rights, the Office of the UN High Commissioner for Human Rights and Mrs. Robinson herself, in function of justifying the barbaric aggression against the FR of Yugoslavia which represents a crime against humanity and genocide against the Yugoslav peoples.

The so-composed report with its philosophy is clearly in function of the policy of strategic interests of countries - aggressors on the FR of Yugoslavia and thus, contrary to the mandate of the UN High Commissioner for Human Rights.

In order to make an impartial and credible Report, the High Commissioner for Human Rights should have based that report on irrefutable facts which are as follows:

- The brutal aggression by NATO against the sovereign and independent FR of Yugoslavia was launched on 24 March 1999.

- The bombing represents the flagrant violation of the Charter of the United Nations, the OSCE Final Act, international law, humanitarian law in particular.

- The bombing represents the genocide against the peoples of the FR of Yugoslavia.

- NATO bombing caused a humanitarian catastrophe with unforeseeable consequences for the civilian population of the FR of Yugoslavia.

- The exodus of refugees started as of 24 March 1999, i.e. on the day the bombing began. Hundreds of thousands of people had to leave their homes and flee to other parts of the FR of Yugoslavia and neighboring countries.

- The NATO barbaric bombing does not spare refugees. It kills them indiscriminately in collective centers or in convoys while going back to their homes.

- Over the past 26 days of the aggression, in 6000 criminal attacks by the NATO alliance, 500 civilians were killed, whereas 4000 were inflicted heavy injuries.

- The NATO criminals attack only civilian facilities, transport and economic infrastructure, dwellings, schools, children institutions, hospitals, refugee centers.

- By destroying economic facilities throughout the FR of Yugoslavia, 500 000 persons remained jobless, whereas 2 million of their family members were left without any further income.

- The 1998/1999 schoolyear was abruptly discontinued for 800 000 pupils and students and without any view that it will soon resume. That way, the right of pupils and students to education was most directly affected. Over 190 facilities in which education was conducted was partially or completely destroyed (kindergartens, schools and faculties).

All these facts clearly show that by bombing the FR of Yugoslavia, NATO countries committed a crime against humanity. The international community and the UN Commission on Human Rights must take all the necessary measures in order to stop this brutal aggression against the FR of Yugoslavia.

All persons responsible for this NATO aggression against the FR of Yugoslavia should be brought, without delay, before the international criminal court, one similar to the one in Nurnmberg where they would be held responsible for their crimes.

It was the duty and moral obligation of the UN High Commissioner for Human Rights to call on the Commission on Human Rights, in line with her mandate, to take all the necessary in order for the barbaric bombing of an independent and sovereign state be immediately halted. Unfortunacely, this was not the case, what is very much deplorable.

It is a sincere hope that the Commission on Human Rights itself would condemn the barbaric NATO aggression against the FR of Yugoslavia, what unfortunately was not done by the High Commissioner for Human Rights.

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COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Agenda items 10 and 17 (d)

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

PROMOTION AND PROTECTION OF HUMAN RIGHTS

SCIENCE AND ENVIRONMENT

Letter dated 19 April 1999 from the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to transmit, enclosed herewith*, a letter, dated 18 April 1999, from His Excellency Zivadin Jovanovic, Federal Minister for Foreign Affairs of the Federal Republic of Yugoslavia, addressed to Mr. Vladimir Petrovsky, Director-General of the United Nations Office in Geneva, concerning the ecological catastrophe caused by the NATO bombing. I would like to ask you to have it circulated as an official document of the fifty-fifth session of the Commission on Human Rights under agenda items 10 and 17 (d).

(Signed) Branko BRANKOVIC
Ambassador
Chargé d'affaires a.i.

* The annex is reproduced as received, in the language of submission only.

GE.99-13357 (E)

18 April 1999

Excellency,

I would like to warn you and the United Nations Security Council on behalf of the Yugoslav Government and Yugoslav peoples that the several-weeks long aggression by NATO forces against the FR of Yugoslavia, aside from unforeseeable civilian casualties and destruction, already provoked an ecological catastrophe, endangering thus lives of millions of citizens of Yugoslavia, neighboring countries and Europe.

Daily deliberate destruction of plants of chemical, oil and pharmaceutical industry by the NATO aggressors, carried out in the vicinity of large cities, such as the two-million populated Belgrade, Novi Sad, Pristina, Pancevo, Subotica, Smederevo, Cacak, Krusevac, brings about the emission of huge quantities of poisonous substances, endangering thus the lives of people, contaminating the air, soil, the entire living world. The most recent example is tonight's bombing of chemical plants in Belgrade, Pancevo, Novi Sad, which caused the spill-over of large quantities of ammonia, oil, the combustion of reserves of chemicals used for the production of plastics and artificial fertilizers, and created large clouds of poisonous gases that covered the skies of these cities and their environs.

Thousands of citizens of Yugoslavia have been compelled over the past few days to seek medical help due to poisoning by hazardous gases that were emitted in the course of the bombing of chemical plants in Yugoslavia. This is yet another example of crimes against humanity caused by the NATO aggressors. Risks of numerous consequences are still being examined.

Previous bombings of oil refineries in Novi Sad, Belgrade and Pancevo provoked an oil stain on the Danube river, long about 15 kilometers and large 400 meters, which endangered the flora and fauna of this European and Black Sea economic, tourist and ecological river artery.

Are endangered the important European rivers - the Danube and the Sava, as well as the Black Sea, the Adriatic and the Mediterranean.

His Excellency
Mr. Vladimir PETROVSKY
Director General
UN Office in Geneva
G e n e v a

NATO aggressors also attacked national parks on the mountains Kopaonik, Tara, Durmitor, Zlatibor, Divcibare, Crni Vrh. Civilian facilities on many others were destroyed and numerous forest fires caused by the bombing lastingly endangered the unique ecological system in this part of Europe.

The bombing of facilities situated at the seaside and the spill-over of dangerous substances particularly endanger the waters and shores of the Adriatic Sea including the Skadar Lake situated at the border between Yugoslavia and Albania.

It is particularly worrisome that the NATO aggressors over the past few days sent the A-10 planes which use ammunition with depleted uranium. According to results provided by the British laboratory "Coghill", it was established that this ammunition had caused the "Gulf syndrome", leukaemia and anomalies with the new-borns.

Combustion and exhaust gases after more than 6000 take-offs of NATO planes from bases and air-carries in the Adriatic and the Mediterranean and more than 10.000 of explosives of enormous destruction power that the NATO aggressors used in the course of the ongoing aggression against the FRY, endanger the ozone layer, bring about lasting contamination of the soil, cultivable areas and waterways, and cause unforeseeable and lasting damage to the entire population, including the flora and fauna not only in Yugoslavia, but as well in South-Eastern Europe and in the entire Mediterranean basin.

With the expansion of the aggression by ever more frequent throwing bombs on territories of neighboring countries - Bulgaria, Macedonia, Bosnia and Herzegovina, Italy (the Garda lake) - are growing risks of endangering plants that represent a danger for the ecology on a wider European plan.

I am addressing you, Excellency, in the expectation that you will take, as soon as possible, all the necessary measures within your competence in order to stop immediately the NATO aggression, preventing thus even more serious ecological consequences for the larger region of Europe and the Mediterranean, having in mind particularly the protection of peoples, air, water, food, forests and national parks.

Expecting appropriate engagement of the UN and its agencies, in particular the UNEP in line with the "Agenda 2000" from Rio de Janeiro.

Respectfully yours,
Zivadin Jovanovic
(signed)

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